

**THE RYAN WHITE CARE ACT:
A COMPILATION OF
THE RYAN WHITE CARE ACT OF 1990 [Pub. L. 101-381],
AS AMENDED BY THE RYAN WHITE CARE ACT
AMENDMENTS OF 1996 [Pub. L. 104-146]
AND THE RYAN WHITE CARE ACT
AMENDMENTS OF 2000 [Pub. L. 106-345]**

Plain Text: Old Language

**Bold Text: New Language, pursuant to the Ryan White CARE Act
Amendments of 2000**

TITLE XXVI—HIV HEALTH CARE SERVICES PROGRAM¹

**PART A—EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED
FOR SERVICES**

SEC. 2601. [300ff-11]² ESTABLISHMENT OF PROGRAM OF GRANTS.

(a) **ELIGIBLE AREAS.**—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, subject to subsections (b) through (d), make grants in accordance with section 2603 for the purpose of assisting in the provision of the services specified in section 2604 in any metropolitan area for which there has been reported to the Director of the Centers for Disease Control and Prevention a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome for the most recent period of 5 calendar years for which such data are available.

(b) **REQUIREMENT REGARDING CONFIRMATION OF CASES.**—The Secretary may not make a grant under subsection (a) for a metropolitan area unless, before making any payments under the grant, the cases of acquired immune deficiency syndrome reported for purposes of such subsection have been confirmed by the Secretary, acting through the Director of the Centers for Disease Control and

¹ This title was added by Public Law 101—381. Section 2 of that Public Law provides as follows: “It is the purpose of this Act to provide emergency assistance to localities that are disproportionately affected by the Human Immunodeficiency Virus epidemic and to make financial assistance available to States and other public or private nonprofit entities to provide for the development, organization, coordination and operation of more effective and cost efficient systems for the delivery of essential services to individuals and families with HIV disease.”

² Citations in brackets are to the corresponding sections within 42 U.S.C.A..

Prevention.

(c) **REQUIREMENTS REGARDING POPULATION.**—

(1) **NUMBER OF INDIVIDUALS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary may not make a grant under this section for a metropolitan area unless the area has a population of 500,000 or more individuals.

(B) **LIMITATION.**—Subparagraph (A) does not apply to any metropolitan area that was an eligible area under this part for fiscal year 1995 or any prior fiscal year.

(2) **GEOGRAPHIC BOUNDARIES.**—For purposes of eligibility under this part, the boundaries of each metropolitan area are the boundaries that were in effect for the area for fiscal year 1994.

(d) **CONTINUED STATUS AS ELIGIBLE AREA.**—Notwithstanding any other provision of this section, a metropolitan area that was an eligible area under this part for fiscal year 1996 is an eligible area for fiscal year 1997 and each subsequent fiscal year.

SEC. 2602. [300ff-12] ADMINISTRATION AND PLANNING COUNCIL.

(a) **ADMINISTRATION.**—

(1) **IN GENERAL.**—Assistance made available under grants awarded under this part shall be directed to the chief elected official of the city or urban county that administers the public health agency that provides outpatient and ambulatory services to the greatest number of individuals with AIDS, as reported to and confirmed by the Centers for Disease Control and Prevention, in the eligible area that is awarded such a grant.

(2) **REQUIREMENTS.**—

(A) **IN GENERAL.**—To receive assistance under section 2601(a), the chief elected official of the eligible area involved shall—

(i) establish, through intergovernmental agreements with the chief elected officials of the political subdivisions described in subparagraph (B), an administrative mechanism to allocate funds and services based on—

(I) the number of AIDS cases in such subdivisions;

(II) the severity of need for outpatient and ambulatory care services in such subdivisions; and

(III) the health and support services personnel needs of such subdivisions; and

(ii) establish an HIV health services planning council in accordance with subsection (b).

(B) **LOCAL POLITICAL SUBDIVISION.**—The political subdivisions referred to in subparagraph (A) are those political subdivisions in the eligible area—

(i) that provide HIV-related health services; and

(ii) for which the number of cases reported for purposes of section 2601(a) constitutes not less than 10 percent of the number of such cases reported for the eligible area.

(b) HIV HEALTH SERVICES PLANNING COUNCIL.—

(1) ESTABLISHMENT.—To be eligible for assistance under this part, the chief elected official described in subsection (a)(1) shall establish or designate an HIV health services planning council that shall reflect in its composition the **demographics of the population of individuals with HIV disease in the eligible area involved**, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations. Nominations for membership on the council shall be identified through an open process and candidates shall be selected based on locally delineated and publicized criteria. Such criteria shall include a conflict-of-interest standard that is in accordance with paragraph (5).

(2) REPRESENTATION.—The HIV health services planning council shall include representatives of—

(A) health care providers, including federally qualified health centers;

(B) community-based organizations serving affected populations and AIDS service organizations;

(C) social service providers, **including providers of housing and homeless services**;

(D) mental health and substance abuse providers;

(E) local public health agencies;

(F) hospital planning agencies or health care planning agencies;

(G) affected communities, including people with HIV disease and historically underserved groups and subpopulations;

(H) nonelected community leaders;

(I) State government (including the State medicaid agency and the agency administering the program under part B);

(J) grantees under subpart II of part C;

(K) grantees under section 2671, or, if none are operating in the area, representatives of organizations with a history of serving children, youth, women, and families living with HIV and operating in the area;

(L) grantees under other Federal HIV programs, **including but not limited to providers of HIV prevention services**; and

(M) **representatives of individuals who formerly were Federal, State, or local prisoners, were released from the custody of the penal system during the preceding 3 years, and had HIV disease as of the date on which the individuals were so released.**

(3) METHOD OF PROVIDING FOR COUNCIL.—

(A) IN GENERAL.—In providing for a council for purposes of paragraph (1), a chief elected official receiving a grant under section

2601(a) may establish the council directly or designate an existing entity to serve as the council, subject to subparagraph (B).

(B) CONSIDERATION REGARDING DESIGNATION OF COUNCIL.—In making a determination of whether to establish or designate a council under subparagraph (A), a chief elected official receiving a grant under section 2601(a) shall give priority to the designation of an existing entity that has demonstrated experience in planning for the HIV health care service needs within the eligible area and in the implementation of such plans in addressing those needs. Any existing entity so designated shall be expanded to include a broad representation of the full range of entities that provide such services within the geographic area to be served.

(4) DUTIES.—The planning council established or designated under paragraph (1) shall—

(A) **determine the size and demographics of the population of individuals with HIV disease**;

(B) **determine the needs of such population, with particular attention to—**

(i) **individuals with HIV disease who know their HIV status and are not receiving HIV-related services**; and

(ii) **disparities in access and services among affected subpopulations and historically underserved communities**;

(C) establish priorities for the allocation of funds within the eligible area, including how best to meet each such priority and additional factors that a grantee should consider in allocating funds under a grant based on the—

(i) **size and demographics of the population of individuals with HIV disease (as determined under subparagraph (A)) and the needs of such population (as determined under subparagraph (B))**;

(ii) **demonstrated (or probable) cost effectiveness and outcome effectiveness of proposed strategies and interventions, to the extent that data are reasonably available**;

(iii) **priorities of the communities with HIV disease for whom the services are intended**;

(iv) **coordination in the provision of services to such individuals with programs for HIV prevention and for the prevention and treatment of substance abuse, including programs that provide comprehensive treatment for such abuse**;

(v) **availability of other governmental and non-governmental resources, including the State medicaid plan under title XIX of the Social Security Act and the State**

Children’s Health Insurance Program under title XXI of such Act to cover health care costs of eligible individuals and families with HIV disease; and

(vi) capacity development needs resulting from disparities in the availability of HIV-related services in historically underserved communities;

(D) develop a comprehensive plan for the organization and delivery of health and support services described in section 2604 that—

(i) includes a strategy for identifying individuals who know their HIV status and are not receiving such services and for informing the individuals of and enabling the individuals to utilize the services, giving particular attention to eliminating disparities in access and services among affected subpopulations and historically underserved communities, and including discrete goals, a timetable, and an appropriate allocation of funds;

(ii) includes a strategy to coordinate the provision of such services with programs for HIV prevention (including outreach and early intervention) and for the prevention and treatment of substance abuse (including programs that provide comprehensive treatment services for such abuse); and

(iii) is compatible with any State or local plan for the provision of services to individuals with HIV disease;

(E) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area, and at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs;

(F) participate in the development of the statewide coordinated statement of need initiated by the State public health agency responsible for administering grants under part B;

(G) establish methods for obtaining input on community needs and priorities which may include public meetings (in accordance with paragraph (7)), conducting focus groups, and convening ad-hoc panels; and

(H) coordinate with Federal grantees that provide HIV-related services within the eligible area.

(5) CONFLICTS OF INTEREST.—

(A) IN GENERAL.—The planning council under paragraph (1) may not be directly involved in the administration of a grant under section 2601(a). With respect to compliance with the preceding sentence, the planning council may not designate (or otherwise be involved in the

selection of) particular entities as recipients of any of the amounts provided in the grant.

(B) REQUIRED AGREEMENTS.—An individual may serve on the planning council under paragraph (1) only if the individual agrees that if the individual has a financial interest in an entity, if the individual is an employee of a public or private entity, or if the individual is a member of a public or private organization, and such entity or organization is seeking amounts from a grant under section 2601(a), the individual will not, with respect to the purpose for which the entity seeks such amounts, participate (directly or in an advisory capacity) in the process of selecting entities to receive such amounts for such purpose.

(C) COMPOSITION OF COUNCIL.—The following applies regarding the membership of a planning council under paragraph (1):

(i) Not less than 33 percent of the council shall be individuals who are receiving HIV-related services pursuant to a grant under section 2601(a), are not officers, employees, or consultants to any entity that receives amounts from such a grant, and do not represent any such entity, and reflect the demographics of the population of individuals with HIV disease as determined under paragraph (4)(A). For purposes of the preceding sentence, an individual shall be considered to be receiving such services if the individual is a parent of, or a caregiver for, a minor child who is receiving such services.

(ii) With respect to membership on the planning council, clause (i) may not be construed as having any effect on entities that receive funds from grants under any of parts B through F but do not receive funds from grants under section 2601(a), on officers or employees of such entities, or on individuals who represent such entities.

(6) GRIEVANCE PROCEDURES.—A planning council under paragraph (1) shall develop procedures for addressing grievances with respect to funding under this part, including procedures for submitting grievances that cannot be resolved to binding arbitration. Such procedures shall be described in the by-laws of the planning council and be consistent with the requirements of subsection (c).

(7) PUBLIC DELIBERATIONS.—With respect to a planning council under paragraph (1), the following applies:

(A) The council may not be chaired solely by an employee of the grantee under section 2601(a).

(B) In accordance with criteria established by the Secretary:

(i) The meetings of the council shall be open to the public

and shall be held only after adequate notice to the public.

(ii) The records, reports, transcripts, minutes, agenda, or other documents which were made available to or prepared for or by the council shall be available for public inspection and copying at a single location.

(iii) Detailed minutes of each meeting of the council shall be kept. The accuracy of all minutes shall be certified to by the chair of the council.

(iv) This subparagraph does not apply to any disclosure of information of a personal nature that would constitute a clearly unwarranted invasion of personal privacy, including any disclosure of medical information or personnel matters.

(c) GRIEVANCE PROCEDURES.—

(1) FEDERAL RESPONSIBILITY.—

(A) MODELS.—The Secretary shall, through a process that includes consultations with grantees under this part and public and private experts in grievance procedures, arbitration, and mediation, develop model grievance procedures that may be implemented by the planning council under subsection (b)(1) and grantees under this part. Such model procedures shall describe the elements that must be addressed in establishing local grievance procedures and provide grantees with flexibility in the design of such local procedures.

(B) REVIEW.—The Secretary shall review grievance procedures established by the planning council and grantees under this part to determine if such procedures are adequate. In making such a determination, the Secretary shall assess whether such procedures permit legitimate grievances to be filed, evaluated, and resolved at the local level.

(2) GRANTEES—To be eligible to receive funds under this part, a grantee shall develop grievance procedures that are determined by the Secretary to be consistent with the model procedures developed under paragraph (1)(A). Such procedures shall include a process for submitting grievances to binding arbitration.

(d) PROCESS FOR ESTABLISHING ALLOCATION PRIORITIES.—Promptly after the date of the submission of the report required in section 501(b) of the Ryan White CARE Act Amendments of 2000 (relating to the relationship between epidemiological measures and health care for certain individuals with HIV disease), the Secretary, in consultation with planning councils and entities that receive amounts from grants under section 2601(a) or 2611, shall develop epidemiologic measures—

(1) for establishing the number of individuals living with HIV disease who are not receiving HIV-related health services; and

(2) for carrying out the duties under subsection (b)(4) and section

2617(b).

(e) TRAINING GUIDANCE AND MATERIALS.—The Secretary shall provide to each chief elected official receiving a grant under section 2601(a) guidelines and materials for training members of the planning council under paragraph (1) regarding the duties of the council.

SEC. 2603. [300ff-13] TYPE AND DISTRIBUTION OF GRANTS.

(a) GRANTS BASED ON RELATIVE NEED OF AREA.—

(1) IN GENERAL.—In carrying out section 2601(a), the Secretary shall make a grant for each eligible area for which an application under section 2605(a) has been approved. Each such grant shall be made in an amount determined in accordance with paragraph (3).

(2) EXPEDITED DISTRIBUTION.—Not later than 60 days after an appropriation becomes available to carry out this part for a fiscal year, the Secretary shall, except in the case of waivers granted under section 2605(c), disburse 50 percent of the amount appropriated under section 2677 for such fiscal year through grants to eligible areas under section 2601(a), in accordance with paragraph (3). The Secretary shall reserve an additional percentage of the amount appropriated under section 2677 for a fiscal year for grants under part A to make grants to eligible areas under section 2601(a) in accordance with paragraph (4).

(3) AMOUNT OF GRANT.—

(A) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

(i) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

(ii) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

(B) DISTRIBUTION FACTOR.—For purposes of subparagraph (A)(ii), the term “distribution factor” means an amount equal to the estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved, as determined under subparagraph (C).

(C) ESTIMATE OF LIVING CASES.—The amount determined in this subparagraph is an amount equal to the product of—

(i) the number of cases of acquired immune deficiency syndrome in the eligible area during each year in the most recent 120-month period for which data are available with respect to all eligible areas, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control

and Prevention for each year during such period, **except that (subject to subparagraph (D)), for grants made pursuant to this paragraph for fiscal year 2005 and subsequent fiscal years, the cases counted for each 12-month period beginning on or after July 1, 2004, shall be cases of HIV disease (as reported to and confirmed by such Director) rather than cases of acquired immune deficiency syndrome;** and

(ii) with respect to—

- (I) the first year during such period, .06;
- (II) the second year during such period, .06;
- (III) the third year during such period, .08;
- (IV) the fourth year during such period, .10;
- (V) the fifth year during such period, .16;
- (VI) the sixth year during such period, .16;
- (VII) the seventh year during such period, .24;
- (VIII) the eighth year during such period, .40;
- (IX) the ninth year during such period, .57; and
- (X) the tenth year during such period, .88.

The yearly percentage described in subparagraph (ii) shall be updated biennially by the Secretary, after consultation with the Centers for Disease Control and Prevention, **and shall be reported to the congressional committees of jurisdiction.** The first such update shall occur prior to the determination of grant awards under this part for fiscal year 1998.³ **Updates shall as applicable take into account the counting of cases of HIV disease pursuant to clause (i).**

(D) DETERMINATION OF SECRETARY REGARDING DATA ON HIV CASES.—

(i) **IN GENERAL.—**Not later than July 1, 2004, the Secretary shall determine whether there is data on cases of HIV disease from all eligible areas (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) sufficiently accurate and reliable for use for purposes of subparagraph (C)(i). In making such a determination, the Secretary shall take into consideration the findings of the study under section 501(b) of the Ryan White CARE Act Amendments of 2000 (relating to the relationship between epidemiological measures and health care for certain individuals with HIV disease).

(ii) **EFFECT OF ADVERSE DETERMINATION.—**If under clause (i) the Secretary determines that data on cases of HIV disease

is not sufficiently accurate and reliable for use for purposes of subparagraph (C)(i), then notwithstanding such subparagraph, for any fiscal year prior to fiscal year 2007 the references in such subparagraph to cases of HIV disease do not have any legal effect.

(iii) **GRANTS AND TECHNICAL ASSISTANCE REGARDING COUNTING OF HIV CASES.—**Of the amounts appropriated under section 318B for a fiscal year, the Secretary shall reserve amounts to make grants and provide technical assistance to States and eligible areas with respect to obtaining data on cases of HIV disease to ensure that data on such cases is available from all states and eligible areas as soon as is practicable but **not later than the beginning of fiscal year 2007.**

(E) **UNEXPENDED FUNDS.—**The Secretary may, in determining the amount of a grant for a fiscal year under this paragraph, adjust the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the fiscal year preceding the year for which the grant determination is to be made. The amount of any such unexpended funds shall be determined using the financial status report of the grantee.

(4) INCREASES IN GRANT.—

(A) **IN GENERAL.—**For each fiscal year in a protection period for an eligible area, the Secretary shall increase the amount of the grant made pursuant to paragraph (2) for the area to ensure that—

(i) for the first fiscal year in the protection period, the grant is not less than 98 percent of the amount of the grant made for the eligible area pursuant to such paragraph for the base year for the protection period;

(ii) for any second fiscal year in such period, the grant is not less than 95 percent of the amount of such base year grant;

(iii) for any third fiscal year in such period, the grant is not less than 92 percent of the amount of the base year grant;

(iv) for any fourth fiscal year in such period, the grant is not less than 89 percent of the amount of the base year grant; and

(v) for any fifth or subsequent fiscal year in such period, if, pursuant to paragraph (3)(D)(ii), the references in paragraph (3)(C)(i) to HIV disease do not have any legal effect, the grant is not less than 85 percent of the amount of the base year grant.

(B) **SPECIAL RULE.—**If for fiscal year 2005, pursuant to paragraph (3)(D)(ii), data on cases of HIV disease are used for purposes of paragraph (3)(C)(i), the Secretary shall increase the

³ The mention of the year 1998 is so in law.

amount of a grant made pursuant to paragraph (2) for an eligible area to ensure that the grant is not less than 98 percent of the amount of the grant made for the area in fiscal year 2004.

(C) BASE YEAR; PROTECTION PERIOD.—With respect to grants made pursuant to paragraph (2) for an eligible area:

(i) The base year for a protection period is the fiscal year preceding the trigger grant-reduction year.

(ii) The first trigger grant-reduction year is the first fiscal year (after fiscal year 2000) for which the grant for the area is less than the grant for the area for the preceding fiscal year.

(iii) A protection period begins with the trigger grant-reduction year and continues until the beginning of the first fiscal year for which the amount of the grant determined pursuant to paragraph (2) for the area equals or exceeds the amount of the grant determined under subparagraph (A).

(iv) Any subsequent trigger grant-reduction year is the first fiscal year, after the end of the preceding protection period, for which the amount of the grant is less than the amount of the grant for the preceding fiscal year.

(b) SUPPLEMENTAL GRANTS.—

(1) IN GENERAL.—Not later than 150 days after the date on which appropriations are made under section 2677 for a fiscal year, the Secretary shall disburse the remainder of amounts not disbursed under section 2603(a)(2) for such fiscal year for the purpose of making grants under section 2601(a) to eligible areas whose application under section 2605(b)—

(A) contains a report concerning the dissemination of emergency relief funds under subsection (a) and the plan for utilization of such funds;

(B) demonstrates the severe need in such area for supplemental financial assistance to combat the HIV epidemic;

(C) demonstrates the existing commitment of local resources of the area, both financial and in-kind, to combating the HIV epidemic;

(D) demonstrates the ability of the area to utilize such supplemental financial resources in a manner that is immediately responsive and cost effective;

(E) demonstrates that resources will be allocated in accordance with the local demographic incidence of AIDS including appropriate allocations for services for infants, children, **youth**, women, and families with HIV disease;

(F) demonstrates the inclusiveness of the planning council membership, with particular emphasis on affected communities and individuals with HIV disease; and

(G) demonstrates the manner in which the proposed services are

consistent with the local needs assessment and the statewide coordinated statement of need.

(2) AMOUNT OF GRANT.—

(A) IN GENERAL.—The amount of each grant made for purposes of this subsection shall be determined by the Secretary based on a weighting of factors under paragraph (1), with severe need under subparagraph (B) of such paragraph counting one-third.

(B) SEVERE NEED.—In determining severe need in accordance with paragraph (1)(B), the Secretary shall consider the ability of the qualified applicant to expend funds efficiently and the impact of relevant factors on the cost and complexity of delivering health care and support services to individuals with HIV disease in the eligible area, including factors such as—

(i) sexually transmitted diseases, substance abuse, tuberculosis, severe mental illness, or other comorbid factors determined relevant by the Secretary;

(ii) new or growing subpopulations of individuals with HIV disease;

(iii) homelessness;

(iv) the current prevalence of HIV disease;

(v) an increasing need for HIV-related services, including relative rates of increase in the number of cases of HIV disease; and

(vi) unmet need for such services, as determined under section 2602(b)(4).

(C) PREVALENCE.—In determining the impact of the factors described in **subparagraph (B)**, the Secretary shall, to the extent practicable, use national, quantitative incidence data that are available for each eligible area. Not later than **18 months after the date of the enactment of the Ryan White CARE Act Amendments of 2000**, the Secretary shall develop a mechanism to utilize such data. **Such a mechanism shall be modified to reflect the findings of the study under section 501(b) of the Ryan White CARE Act Amendments of 2000 (relating to the relationship between epidemiological measures and health care for certain individuals with HIV disease).** In the absence of such data, the Secretary may consider a detailed description and qualitative analysis of severe need, as determined under **subparagraph (B)**, including any local prevalence data gathered and analyzed by the eligible area.

(D) PRIORITY.—Subsequent to the development of the quantitative mechanism described in **subparagraph (C)**, the Secretary shall phase

in, over a 3-year period beginning in fiscal year 1998,⁴ the use of such a mechanism to determine the severe need of an eligible area compared to other eligible areas and to determine, in part, the amount of supplemental funds awarded to the eligible area under this part.

(3) **REMAINDER OF AMOUNTS.**—In determining the amount of funds to be obligated under paragraph (1), the Secretary shall include amounts that are not paid to the eligible areas under expedited procedures under section 2603(a)(2) as a result of—

(A) the failure of any eligible area to submit an application under section 2605(c); or

(B) any eligible area informing the Secretary that such eligible area does not intend to expend the full amount of its grant under such section.

(4) **FAILURE TO SUBMIT.**—

(A) **IN GENERAL.**—The failure of an eligible area to submit an application for an expedited grant under section 2603(a)(2) shall not result in such area being ineligible for a grant under this subsection.

(B) **APPLICATION.**—The application of an eligible area submitted under section 2605(b) shall contain the assurances required under subsection (a) of such section if such eligible area fails to submit an application for an expedited **grant** under section 2603(a)(2).

(c) **COMPLIANCE WITH PRIORITIES OF HIV PLANNING COUNCIL.**—Notwithstanding any other provision of this part, the Secretary, in carrying out section 2601(a), may not make any grant under subsection (a) or (b) to an eligible area unless the application submitted by such area under section 2605 for the grant involved demonstrates that the grants made under subsections (a) and (b) to the area for the preceding fiscal year (if any) were expended in accordance with the priorities applicable to such year that were established, pursuant to section **2602(b)(4)(c)**, by the planning council serving the area.

SEC. 2604. [300ff-14] USE OF AMOUNTS.

(a) **REQUIREMENTS.**—The Secretary may not make a grant under section 2601(a) to the chief elected official of an eligible area unless such political subdivision agrees that—

(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(3)(A), by the HIV health services planning council that serves such eligible area; and

(2) funds provided under section 2601 will be expended only for the purposes described in subsections (b) and (c).

(b) **PRIMARY PURPOSES.**—

(1) **IN GENERAL.**—The chief elected official shall use amounts received under a grant under section 2601 to provide direct financial assistance to entities described in paragraph (2) for the purpose of delivering or enhancing **HIV-related services, as follows:**

(A) **Outpatient and ambulatory health services, including substance abuse treatment,** mental health treatment, and comprehensive treatment services, which shall include treatment education and prophylactic treatment for opportunistic infections, for individuals and families with HIV disease.

(B) **Outpatient and ambulatory support services (including case management), to the extent that such services facilitate, enhance, support, or sustain the delivery, continuity, or benefits of health services for individuals and families with HIV disease.**

(C) **Inpatient case management** services that prevent unnecessary hospitalization or that expedite discharge, as medically appropriate, from inpatient facilities.

(D) **Outreach activities that are intended to identify individuals with HIV disease who know their HIV status and are not receiving HIV-related services, and that are—**

(i) **necessary to implement the strategy under section 2602(b)(4)(D), including activities facilitating the access of such individuals to HIV-related primary care services at entities described in paragraph (3)(A);**

(ii) **conducted in a manner consistent with the requirements under sections 2605(a)(3) and 2651(b)(2); and**

(iii) **supplement, and do not supplant, such activities that are carried out with amounts appropriated under section 317.**

(2) **APPROPRIATE ENTITIES.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities,⁵ or private for-profit entities if such entities are the only available provider of quality HIV care in the area, including hospitals (which may include Department of Veterans Affairs facilities), community-based organizations, hospices, ambulatory care facilities, community health centers, migrant health centers, homeless health centers, substance abuse treatment programs, and mental health programs.

(B) **PRIORITY.**—In providing direct financial assistance under paragraph (1) the chief elected official shall give priority to entities that are currently participating in Health Resources and Services Administration HIV health care demonstration projects.

⁴ The mention of the year 1998 is so in law.

⁵ The superfluous comma is so in law. See the amendment made by section 3(b)(4)(B)(i) of Public Law 104-146 (110 Stat. 1351).

(3) EARLY INTERVENTION SERVICES.—

(A) IN GENERAL.—The purposes for which a grant under section 2601 may be used include providing to individuals with HIV disease early intervention services described in section 2651(b)(2), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV disease counseling and testing sites, health care points of entry specified by eligible areas, federally qualified health centers, and entities described in section 2652(a) that constitute a point of access to services by maintaining referral relationships.

(B) CONDITIONS.—With respect to an entity that proposes to provide early intervention services under subparagraph (A), such subparagraph applies only if the entity demonstrates to the satisfaction of the chief elected official for the eligible area involved that—

(i) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

(ii) the entity will expend funds pursuant to such subparagraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

(4) PRIORITY FOR WOMEN, INFANTS AND CHILDREN.—

(A) IN GENERAL.—For the purpose of providing health and support services to infants, children, youth, and women with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of an eligible area, in accordance with the established priorities of the planning council, shall for each of such populations in the eligible area use, from the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population involved (infants, children, youth, or women in such area) with acquired immune deficiency syndrome to the general population in such area of individuals with such syndrome.

(B) WAIVER.—With respect to the population involved, the Secretary may provide to the chief elected official of an eligible area a waiver of the requirement of subparagraph (A) if such official demonstrates to the satisfaction of the Secretary that the

population is receiving HIV-related health services through the State medicaid program under title XIX of the Social Security Act, the State children's health insurance program under title XXI of such Act, or other Federal or State programs.

(c) QUALITY MANAGEMENT.—

(1) REQUIREMENT.—The chief elected official of an eligible area that receives a grant under this part shall provide for the establishment of a quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

(2) USE OF FUNDS.—From amounts received under a grant awarded under this part for a fiscal year, the chief elected official of an eligible area may (in addition to amounts to which subsection (f)(1) applies) use for activities associated with the quality management program required in paragraph (1) not more than the lesser of—

(A) 5 percent of amounts received under the grant; or

(B) \$3,000,000.

(d) LIMITED EXPENDITURES FOR PERSONNEL NEEDS.—

(1) IN GENERAL.—A chief elected official, in accordance with paragraph (3), may use not to exceed 10 percent of amounts received under a grant under section 2601 to provide financial assistance or services, for the purposes described in paragraph (2), to any public or nonprofit private entity, including hospitals (which may include Veterans Administration facilities), nursing homes, subacute and transitional care facilities, and hospices that—

(A) provide HIV-related care or services to a disproportionate share of low-income individuals and families with HIV disease;

(B) incur uncompensated costs in the provision of such care or services to such individuals and families;

(C) have established, and agree to implement, a plan to evaluate the utilization of services provided in the care of individuals and families with HIV disease; and

(D) have established a system designed to ensure that such individuals and families are referred to the most medically appropriate level of care as soon as such referral is medically indicated.

(2) Use.—A chief elected official may use amounts referred to in paragraph (1) to—

(A) provide direct financial assistance to institutions and entities of the type referred to in such paragraph to assist such institutions and

entities in recruiting or training and paying compensation to qualified personnel determined, under paragraph (3), to be necessary by the HIV health services planning council, specifically for the care of individuals with HIV disease; or

(B) in lieu of providing direct financial assistance, make arrangements for the provision of the services of such qualified personnel to such institutions and entities.

(3) REQUIREMENT OF DETERMINATION BY COUNCIL.—A chief elected official shall not use any of the amounts received under a grant under section 2601(a) to provide assistance or services under paragraph (2) unless the HIV health services planning council of the eligible area has made a determination that, with respect to the care of individuals with HIV disease—

(A) a shortage of specific health, mental health or support service personnel exists within specific institutions or entities in the eligible area;

(B) the shortage of such personnel has resulted in the inappropriate utilization of inpatient services within the area; and

(C) assistance or services provided to an institution or entity under paragraph (2), will not be used to supplant the existing resources devoted by such institution or entity to the uses described in such paragraph.

(e) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

(1) PROVISION OF SERVICE.—Subject to paragraph (2), the Secretary may not make a grant under section 2601(a) for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(2) WAIVER.—

(A) IN GENERAL.—In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including

reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) DETERMINATION.—A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

(f) ADMINISTRATION.—

(1) IN GENERAL.—The chief executive officer of an eligible area shall not use in excess of 5 percent of amounts received under a grant awarded under this part for administration.⁶ In the case of entities and subcontractors to which such officer allocates amounts received by the officer under the grant, the officer shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).

(2) ADMINISTRATIVE ACTIVITIES.—For the purposes of paragraph (1), amounts may be used for administrative activities that include—

(A) routine grant administration and monitoring activities, including the development of applications for part A funds, the receipt and disbursement of program funds, the development and establishment of reimbursement and accounting systems, the preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements; and

(B) all activities associated with the grantee's contract award procedures, including the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation or onsite visits, reporting on contracts, and funding reallocation activities.

(3) SUBCONTRACTOR ADMINISTRATIVE COSTS.—For or the purposes of this subsection, subcontractor administrative activities include—

(A) usual and recognized overhead, including established indirect rates for agencies;

(B) management oversight of specific programs funded under this title; and

(C) other types of program support such as quality assurance, quality control, and related activities.

(g) CONSTRUCTION.—A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct,

⁶ The superfluous comma is so in law. See the amendment made by clause (iii) of the second subparagraph (C) of section 3(b)(4) of Public Law 104-146 (110 Stat. 1352).

or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

SEC. 2605. [300ff-15] APPLICATION.

(a) IN GENERAL.—To be eligible to receive a grant under section 2601, an eligible area shall prepare and submit to the Secretary an application, in accordance with subsection (c) regarding a single application and grant award, at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

(1)(A) that funds received under a grant awarded under this part will be utilized to supplement not supplant State funds made available in the year for which the grant is awarded to provide HIV-related **services as described in section 2604(b)(1)**;

(B) that the political subdivisions within the eligible area will maintain the level of expenditures by such political subdivisions for HIV-related **services as described in section 2604(b)(1)** at a level that is equal to the level of such expenditures by such political subdivisions for the preceding fiscal year; and

(C) that political subdivisions within the eligible area will not use funds received under a grant awarded under this part in maintaining the level of expenditures for HIV-related services as required in subparagraph (B);

(2) that the eligible area has an HIV health services planning council and has entered into intergovernmental agreements pursuant to section 2602, and has developed or will develop the comprehensive plan in accordance with section 2602(b)(3)(B);

(3) that entities within the eligible area that receive funds under a grant under this part will maintain appropriate relationships with entities in the eligible area served that constitute key points of access to the health care system for individuals with HIV disease (including emergency rooms, substance abuse treatment programs, detoxification centers, adult and juvenile detention facilities, sexually transmitted disease clinics, HIV counseling and testing sites, mental health programs, and homeless shelters), and other entities under section 2604(b)(3) and 2652(a), for the purpose of facilitating early intervention for individuals newly diagnosed with HIV disease and individuals knowledgeable of their HIV status but not in care;

(4) that the chief elected official of the eligible area will satisfy all requirements under section 2604(c);

(5) that entities within the eligible area that will receive funds under a grant provided under section 2601(a) shall participate in an established HIV community-based continuum of care if such continuum exists within the eligible area;

(6) that funds received under a grant awarded under this part will not

be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis;

(7) to the maximum extent practicable, that—

(A) HIV health care and support services provided with assistance made available under this part will be provided without regard—

(i) to the ability of the individual to pay for such services; and

(ii) to the current or past health condition of the individual to be served;

(B) such services will be provided in a setting that is accessible to low-income individuals with HIV-disease; and

(C) a program of outreach will be provided to low-income individuals with HIV-disease to inform such individuals of such services;

(8) that the applicant has participated, or will agree to participate, in the statewide coordinated statement of need process where it has been initiated by the State public health agency responsible for administering grants under part B, and ensure that the services provided under the comprehensive plan are consistent with the statewide coordinated statement of need; **and**

(9) that the eligible area has procedures in place to ensure that services provided with funds received under this part meet the criteria specified in section 2604(b)(1).

(b) APPLICATION.—An eligible area that desires to receive a grant under section 2603(b) shall prepare and submit to the Secretary an application, in accordance with subsection (c) regarding a single application and grant award, at such time, in such form, and containing such information as the Secretary shall require, including the information required under such subsection and information concerning—

(1) the number of individuals to be served within the eligible area with assistance provided under the grant;

(2) demographic data on the population of such individuals;

(3) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

(4) the aggregate amounts expended for each such category of services.

(c) SINGLE APPLICATION AND GRANT AWARD.—

(1) APPLICATION.—The Secretary may phase in the use of a single application that meets the requirements of subsections (a) and (b) of section 2603 with respect to an eligible area that desires to receive grants under

section 2603 for a fiscal year.

(2) GRANT AWARD.—The Secretary may phase in the awarding of a single grant to an eligible area that submits an approved application under paragraph (1) for a fiscal year.

(d) DATE CERTAIN FOR SUBMISSION.—

(1) REQUIREMENT.—Except as provided in paragraph (2), to be eligible to receive a grant under section 2601(a) for a fiscal year, an application under subsection (a) shall be submitted not later than 45 days after the date on which appropriations are made under **section 2677** for the fiscal year.

(2) EXCEPTION.—The Secretary may extend the time for the submission of an application under paragraph (1) for a period of not to exceed 60 days if the Secretary determines that the eligible area has made a good faith effort to comply with the requirement of such paragraph but has otherwise been unable to submit its application.

(3) DISTRIBUTION BY SECRETARY.—Not later than 45 days after receiving an application that meets the requirements of subsection (a) from an eligible area, the Secretary shall distribute to such eligible area the amounts awarded under the grant for which the application was submitted.

(4) REDISTRIBUTION.—Any amounts appropriated in any fiscal year under this part and not obligated to an eligible entity as a result of the failure of such entity to submit an application shall be redistributed by the Secretary to other eligible entities in proportion to the original grants made to such eligible areas under **section 2601(a)**.

(e) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.—

(1) IN GENERAL.—The Secretary may not make a grant under section 2601 to an eligible area unless the eligible area provides assurances that in the provision of services with assistance provided under the grant—

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider—

(i) will impose a charge on each such individual for the provision of such services; and

(ii) will impose the charge according to a schedule of charges that is made available to the public;

(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(2) ASSESSMENT OF CHARGE.—With respect to compliance with the assurance made under paragraph (1), a grantee or entity receiving assistance under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and regarding limitations on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

(3) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.—The Secretary may not make a grant under section 2601 to an eligible area unless the eligible area agrees that the limitations established in subparagraphs (C), (D) and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

(4) WAIVER REGARDING SECONDARY AGREEMENTS.—The requirements established in paragraphs (1) through (3) shall be waived in accordance with section 2604(d)(2).

SEC. 2606. [300ff-16] TECHNICAL ASSISTANCE.

The Administrator of the Health Resources and Services Administration shall, beginning on the date of enactment of this title, provide technical assistance, including assistance from other grantees, contractors or subcontractors under this title to assist newly eligible metropolitan areas in the establishment of HIV health services planning councils and, to assist entities in complying with the requirements of this part in order to make such entities eligible to receive a grant under this part. The Administrator may make planning grants available to metropolitan areas, in an amount not to exceed \$75,000 for any metropolitan area, projected to be eligible for funding under section 2601 in the following fiscal year. Such grant amounts shall be deducted from the first

year formula award to eligible areas accepting such grants. Not to exceed 1 percent of the amount appropriated for a fiscal year under section 2677 for grants under part A may be used to carry out this section.

SEC. 2607. [300ff-17] DEFINITIONS.

For purposes of this part:

(1) **ELIGIBLE AREA.**—The term “eligible area” means a metropolitan area meeting the requirements of section 2601 that are applicable to the area.

(2) **METROPOLITAN AREA.**—The term “metropolitan area” means an area referred to in the HIV/AIDS Surveillance Report of the Centers for Disease Control and Prevention as a metropolitan area.

PART B—CARE GRANT PROGRAM⁷

Subpart I—General Grant Provisions

SEC. 2611. [300ff-21] GRANTS.

(a) **IN GENERAL.**—The Secretary shall, subject to the availability of appropriations, make grants to States to enable such States to improve the quality, availability and organization of health care and support services for individuals and families with HIV disease. The authority of the Secretary to provide grants under part B is subject to section 2626(e)(2) (relating to the decrease in perinatal transmission of HIV disease).

(b) **PRIORITY FOR WOMEN, INFANTS AND CHILDREN.**—

(1) **IN GENERAL.**—**For the purpose of providing health and support services to infants, children, youth, and women with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, a State shall for each of such populations use, of the funds allocated under this part to the State for a fiscal year, not less than the percentage constituted by the ratio of the population involved (infants, children, youth, or women in the State) with acquired immune deficiency syndrome to the general population in the State of individuals with such syndrome.**

(2) **WAIVER.**—With respect to the population involved, the Secretary may provide to a State a waiver of the requirement of paragraph (1) if the State demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services through the State medicaid program under title XIX of the Social

⁷ Section 8(a) of Public Law 104-146 (110 Stat. 1372) conditions the receipt of grants under part B upon a state’s taking “administrative or legislative action to require that a good faith effort be made to notify a spouse of a known HIV-infected patient that such spouse may have been exposed to the human immunodeficiency virus and should seek testing.”

Security Act, the State children’s health insurance program under title XXI of such Act, or other Federal or State programs.

SEC. 2612. [300ff-22] GENERAL USE OF GRANTS.

(a) **IN GENERAL.**—**A State may use** amounts provided under grants made under this part—

(1)⁸ to provide the services described in section 2604(b)(1) for individuals with HIV disease;

(2) to establish and operate HIV care consortia within areas most affected by HIV disease that shall be designed to provide a comprehensive continuum of care to individuals and families with HIV disease in accordance with section 2613;

(3) to provide home- and community-based care services for individuals with HIV disease in accordance with section 2614;

(4) to provide assistance to assure the continuity of health insurance coverage for individuals with HIV disease in accordance with section 2615; and

(5) to provide therapeutics to treat HIV disease to individuals with HIV disease in accordance with section 2616.

Services described in paragraph (1) shall be delivered through consortia designed as described in paragraph (2), where such consortia exist, unless the State demonstrates to the Secretary that delivery of such services would be more effective when other delivery mechanisms are used. In making a determination regarding the delivery of services, the State shall consult with appropriate representatives of service providers and recipients of services who would be affected by such determination, and shall include in its demonstration to the Secretary the findings of the State regarding such consultation.

(b) **SUPPORT SERVICES; OUTREACH.**—**The purposes for which a grant under this part may be used include delivering or enhancing the following:**

(1) **Outpatient and ambulatory support services under section 2611(a) (including case management) to the extent that such services facilitate, enhance, support, or sustain the delivery, continuity, or benefits of health services for individuals and families with HIV disease.**

(2) **Outreach activities that are intended to identify individuals with HIV disease who know their HIV status and are not receiving HIV-related services, and that are—**

⁸ Section 503(b) of Public Law 106-345 provides that “[t]he first paragraph (2) of section 3(c) of the Ryan White CARE Act Amendments of 1996 (Public Law 104-146; 110 Stat. 1354) is amended in subparagraph (A)(iii) by striking ‘by inserting the following new paragraph:’ and inserting ‘by inserting before paragraph (2) (as so redesignated) the following new paragraph.’” This amendment corrected ambiguous language in Public Law 104-146 that made the placement of paragraph (1) unclear.

(A) necessary to implement the strategy under section 2617(b)(4)(B), including activities facilitating the access of such individuals to HIV-related primary care services at entities described in subsection (c)(1);

(B) conducted in a manner consistent with the requirement under section 2617(b)(6)(G) and 2651(b)(2); and

(C) supplement, and do not supplant, such activities that are carried out with amounts appropriated under section 317.

(c) EARLY INTERVENTION SERVICES.—

(1) **IN GENERAL.**—The purposes for which a grant under this part may be used include providing to individuals with HIV disease early intervention services described in section 2651(b)(2), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV disease counseling and testing sites, health care points of entry specified by States or eligible areas, federally qualified health centers, and entities described in section 2652(a) that constitute a point of access to services by maintaining referral relationships.

(2) **CONDITIONS.**—With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph applies only if the entity demonstrates to the satisfaction of the State involved that—

(A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

(B) the entity will expend funds pursuant to such paragraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

(d) QUALITY MANAGEMENT.—

(1) **REQUIREMENT.**—Each State that receives a grant under this part shall provide for the establishment of a quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

(2) **USE OF FUNDS.**—From amounts received under a grant awarded under this part for a fiscal year, the State may (in addition to

amounts to which section 2618(b)(5) applies) use for activities associated with the quality management program required in paragraph (1) not more than the lesser of—

(A) 5 percent of amounts received under the grant; or

(B) \$3,000,000.

SEC. 2613. [300ff-23] GRANTS TO ESTABLISH HIV CARE CONSORTIA.

(a) **CONSORTIA.**—A State may use amounts provided under a grant awarded under this part to provide assistance under section 2612(a)(1) to an entity that—

(1) is an association of one or more public, and one or more nonprofit private, (or private for-profit providers or organizations if such entities are the only available providers of quality HIV care in the area) health care and support service providers and community based organizations operating within areas determined by the State to be most affected by HIV disease; and

(2) agrees to use such assistance for the planning, development and delivery, through the direct provision of services or through entering into agreements with other entities for the provision of such services, of comprehensive outpatient health and support services for individuals with HIV disease; that may include—

(A) essential health services such as case management services, medical, nursing, substance abuse treatment, mental health treatment, and dental care, diagnostics, monitoring, prophylactic treatment for opportunistic infections, treatment education to take place in the context of health care delivery, and medical follow-up services, mental health, developmental, and rehabilitation services, home health and hospice care; and

(B) essential support services such as transportation services, attendant care, homemaker services, day or respite care, benefits advocacy, advocacy services provided through public and nonprofit private entities, and services that are incidental to the provision of health care services for individuals with HIV disease including nutrition services, housing referral services, and child welfare and family services (including foster care and adoption services).

An entity or entities of the type described in this subsection shall hereinafter be referred to in this title as a “consortium or “consortia”.

(b) ASSURANCES.—

(1) **REQUIREMENT.**—To receive assistance from a State under subsection (a), an applicant consortium shall provide the State with assurances that—

(A) within any locality in which such consortium is to operate, the

populations and subpopulations of individuals and families with HIV disease have been identified by the consortium, **particularly those experiencing disparities in access and services and those who reside in historically underserved communities;**

(B) the service plan established under subsection (c)(2) by such consortium **is consistent with the comprehensive plan under section 2617(b)(4) and** addresses the special care and service needs of the populations and subpopulations identified under subparagraph (A); and

(C) except as provided in paragraph (2), the consortium will be a single coordinating entity that will integrate the delivery of services among the populations and subpopulations identified under subparagraph (A).

(2) EXCEPTION.—Subparagraph (C) of paragraph (1) shall not apply to any applicant consortium that the State determines will operate in a community or locality in which it has been demonstrated by the applicant consortium that—

(A) subpopulations exist within the community to be served that have unique service requirements; and

(B) such unique service requirements cannot be adequately and efficiently addressed by a single consortium serving the entire community or locality.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance from the State under subsection (a), a consortium shall prepare and submit to the State, an application that—

(A) demonstrates that the consortium includes agencies and community-based organizations—

(i) with a record of service to populations and subpopulations with HIV disease requiring care within the community to be served; and

(ii) that are representative of populations and subpopulations reflecting the local incidence of HIV and that are located in areas in which such populations reside;

(B) demonstrates that the consortium has carried out an assessment of service needs within the geographic area to be served and, after consultation with the entities described in paragraph (2), has established a plan to ensure the delivery of services to meet such identified needs that shall include—

(i) assurances that service needs will be addressed through the coordination and expansion of existing programs before new programs are created;

(ii) assurances that, in metropolitan areas, the geographic area to be served by the consortium corresponds to the geographic

boundaries of local health and support services delivery systems to the extent practicable;

(iii) assurances that, in the case of services for individuals residing in rural areas, the applicant consortium shall deliver case management services that link available community support services to appropriate specialized medical services; and

(iv) assurances that the assessment of service needs and the planning of the delivery of services will include participation by individuals with HIV disease;

(C) demonstrates that adequate planning has occurred to meet the special needs of families with HIV disease, including family centered and youth centered care;

(D) demonstrates that the consortium has created a mechanism to evaluate periodically—

(i) the success of the consortium in responding to identified needs; and

(ii) the cost-effectiveness of the mechanisms employed by the consortium to deliver comprehensive care;

(E) demonstrates that the consortium will report to the State the results of the evaluations described in subparagraph (D) and shall make available to the State or the Secretary, on request, such data and information on the program methodology that may be required to perform an independent evaluation; **and**

(F) demonstrates that adequate planning occurred to address disparities in access and services and historically underserved communities.

(2) CONSULTATION.—In establishing the plan required under paragraph (1)(B), the consortium shall consult with—

(A)(i) the public health agency that provides or supports ambulatory and outpatient HIV-related health care services within the geographic area to be served; or

(ii) in the case of a public health agency that does not directly provide such HIV-related health care services such agency shall consult with an entity or entities that directly provide ambulatory and outpatient HIV-related health care services within the geographic area to be served;

(B) not less than one community-based organization that is organized solely for the purpose of providing HIV-related support services to individuals with HIV disease;

(C) grantees under section 2671, or, if none are operating in the area, representatives in the area of organizations with a history of serving children, youth, women, and families living with HIV; **and**

(D) the types of entities described in section 2602(b)(2).

The organization to be consulted under subparagraph (B) shall be at the discretion of the applicant consortium.

(d) DEFINITION.—As used in this part, the term “family centered care” means the system of services described in this section that is targeted specifically to the special needs of infants, children, women, and families. Family centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care for children, women, and families with HIV disease.

(e) PRIORITY.—In providing assistance under subsection (a), the State shall, among applicants that meet the requirements of this section, give priority—

(1) first to consortia that are receiving assistance from the Health Resources and Services Administration for adult and pediatric HIV-related care demonstration projects; and then

(2) to any other existing HIV care consortia.

SEC. 2614. [300ff-24] GRANTS FOR HOME- AND COMMUNITY-BASED CARE.

(a) USES.—A State may use amounts provided under a grant awarded under this part to make grants under section 2612(a)(2) to entities to—

(1) provide home- and community-based health services for individuals with HIV disease pursuant to written plans of care prepared by a case management team, that shall include appropriate health care professionals, in such State for providing such services to such individuals;

(2) provide outreach services to individuals with HIV disease, including those individuals in rural areas; and

(3) provide for the coordination of the provision of services under this section with the provision of HIV-related health services provided by public and private entities.

(b) PRIORITY.—In awarding grants under subsection (a), a State shall give priority to entities that provide assurances to the State that—

(1) such entities will participate in HIV care consortia if such consortia exist within the State; and

(2) such entities will utilize amounts provided under such grants for the provision of home- and community-based services to low-income individuals with HIV disease.

(c) DEFINITION.—As used in this part, the term “home- and community-based health services”—

(1) means, with respect to an individual with HIV disease, skilled health services furnished to the individual in the individual’s home pursuant to a written plan of care established by a case management team, that shall include appropriate health care professionals, for the provision of such services and items described in paragraph (2);

(2) includes—

(A) durable medical equipment;

(B) homemaker or home health aide services and personal care services furnished in the home of the individual;

(C) day treatment or other partial hospitalization services;

(D) home intravenous and aerosolized drug therapy (including prescription drugs administered as part of such therapy);

(E) routine diagnostic testing administered in the home of the individual; and

(F) appropriate mental health, developmental, and rehabilitation services; and

(3) does not include—

(A) inpatient hospital services; and

(B) nursing home and other long term care facilities.

SEC. 2615. [300ff-25] CONTINUUM OF HEALTH INSURANCE COVERAGE.

(a) In General.—A State may use amounts received under a grant awarded under this part to establish a program of financial assistance under section 2612(a)(3) to assist eligible low-income individuals with HIV disease in—

(1) maintaining a continuity of health insurance; or

(2) receiving medical benefits under a health insurance program, including risk-pools.

(b) LIMITATIONS.—Assistance shall not be utilized under subsection (a)—

(1) to pay any costs associated with the creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools); and

(2) to pay any amount expended by a State under title XIX of the Social Security Act.

SEC. 2616. [300ff-26] PROVISION OF TREATMENTS.

(a) IN GENERAL.—A State shall use a portion of the amounts provided under a grant awarded under this part to establish a program under section 2612(a)(5) to provide therapeutics to treat HIV disease or prevent the serious deterioration of health arising from HIV disease in eligible individuals, including measures for the prevention and treatment of opportunistic infections.

(b) ELIGIBLE INDIVIDUAL.—To be eligible to receive assistance from a State under this section an individual shall—

(1) have a medical diagnosis of HIV disease; and

(2) be a low-income individual, as defined by the State.

(c) STATE DUTIES.—In carrying out this section the State shall—

(1) determine, in accordance with guidelines issued by the Secretary,

which treatments are eligible to be included under the program established under this section;

(2) provide assistance for the purchase of treatments determined to be eligible under paragraph (1), and the provision of such ancillary devices that are essential to administer such treatments;

(3) provide outreach to individuals with HIV disease, and as appropriate to the families of such individuals;

(4) facilitate access to treatments for such individuals;

(5) document the progress made in making therapeutics described in subsection (a) available to individuals eligible for assistance under this section; **and**

(6) encourage, support, and enhance adherence to and compliance with treatment regimens, including related medical monitoring.

Of the amount reserved by a State for a fiscal year for use under this section, the State may not use more than 5 percent to carry out services under paragraph (6), except that the percentage applicable with respect to such paragraph is 10 percent if the State demonstrates to the Secretary that such additional services are essential and in no way diminish access to the therapeutics described in subsection (a).

(d) **DUTIES OF THE SECRETARY.**—In carrying out this section, the Secretary shall review the current status of State drug reimbursement programs established under section 2612(2) and assess barriers to the expanded availability of the treatments described in subsection (a). The Secretary shall also examine the extent to which States coordinate with other grantees under this title to reduce barriers to the expanded availability of the treatments described in subsection (a).

(e) **USE OF HEALTH INSURANCE AND PLANS.**—

(1) **IN GENERAL.**—In carrying out subsection (a), a State may expend a grant under this part to provide the therapeutics described in such subsection by paying on behalf of individuals with HIV disease the costs of purchasing or maintaining health insurance or plans whose coverage includes a full range of such therapeutics and appropriate primary care services.

(2) **LIMITATION.**—The authority established in paragraph (1) applies only to the extent that, for the fiscal year involved, the costs of the health insurance or plans to be purchased or maintained under such paragraph do not exceed the costs of otherwise providing therapeutics described in subsection (a).

SEC. 2617. [300ff-27] STATE APPLICATION.

(a) **IN GENERAL.**—The Secretary shall not make a grant to a State under this part for a fiscal year unless the State prepares and submits, to the Secretary, an application at such time, in such form, and containing such agreements,

assurances, and information as the Secretary determines to be necessary to carry out this part.

(b) **DESCRIPTION OF INTENDED USES AND AGREEMENTS.**—The application submitted under subsection (a) shall contain—

(1) a detailed description of the HIV-related services provided in the State to individuals and families with HIV disease during the year preceding the year for which the grant is requested, and the number of individuals and families receiving such services, that shall include—

(A) a description of the types of programs operated or funded by the State for the provision of HIV-related services during the year preceding the year for which the grant is requested and the methods utilized by the State to finance such programs;

(B) an accounting of the amount of funds that the State has expended for such services and programs during the year preceding the year for which the grant is requested; and

(C) information concerning—

(i) the number of individuals to be served with assistance provided under the grant;

(ii) demographic data on the population of the individuals to be served;

(iii) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

(iv) the aggregate amounts expended for each such category of services;

(2) a determination of the size and demographics of the population of individuals with HIV disease in the State;

(3) a determination of the needs of such population, with particular attention to—

(A) individuals with HIV disease who know their HIV status and are not receiving HIV-related services; and

(B) disparities in access and services among affected subpopulations and historically underserved communities;

(4) a comprehensive plan that describes the organization and delivery of HIV health care and support services to be funded with assistance received under this part that shall include a description of the purposes for which the State intends to use such assistance, and that—

(A) establishes priorities for the allocation of funds within the State based on—

(i) size and demographics of the population of individuals with HIV disease (as determined under paragraph (2)) and the needs of such population (as determined under paragraph (3));

(ii) availability of other governmental and non-

governmental resources, including the State medicaid plan under title XIX of the Social Security Act and the State Children's Health Insurance Program under title XXI of such Act to cover health care costs of eligible individuals and families with HIV disease;

(iii) capacity development needs resulting from disparities in the availability of HIV-related services in historically underserved communities and rural communities; and

(iv) the efficiency of the administrative mechanism of the State for rapidly allocating funds to the areas of greatest need within the State;

(B) includes a strategy for identifying individuals who know their HIV status and are not receiving such services and for informing the individuals of and enabling the individuals to utilize the services, giving particular attention to eliminating disparities in access and services among affected subpopulations and historically underserved communities, and including discrete goals, a timetable, and an appropriate allocation of funds;

(C) includes a strategy to coordinate the provision of such services with programs for HIV prevention (including outreach and early intervention) and for the prevention and treatment of substance abuse (including programs that provide comprehensive treatment services for such abuse);

(D) describes the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with such assistance will maximize the quality of health and support services available to individuals with HIV disease throughout the State;

(E) provides a description of the manner in which services funded with assistance provided under this part will be coordinated with other available related services for individuals with HIV disease; and

(F) provides a description of how the allocation and utilization of resources are consistent with the statewide coordinated statement of need (including traditionally underserved populations and subpopulations) developed in partnership with other grantees in the State that receive funding under this title; and

(5) an assurance that the public health agency administering the grant for the State will periodically convene a meeting of individuals with **HIV disease**, representatives of grantees under each part under this title, providers, and public agency representatives for the purpose of developing a statewide coordinated statement of need; and

(6) an assurance by the State that—

(A) the public health agency that is administering the grant

for the State engages in a public advisory planning process, including public hearings, that includes the participants under paragraph (5), and the types of entities described in section 2602(b)(2), in developing the comprehensive plan under paragraph (4) and commenting on the implementation of such plan;

(B) the State will—

(i) to the maximum extent practicable, ensure that HIV-related health care and support services delivered pursuant to a program established with assistance provided under this part will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

(ii) ensure that such services will be provided in a setting that is accessible to low-income individuals with HIV disease;

(iii) provide outreach to low-income individuals with HIV disease to inform such individuals of the services available under this part; and

(iv) in the case of a State that intends to use amounts provided under the grant for purposes described in 2615⁹, submit a plan to the Secretary that demonstrates that the State has established a program that assures that—

(I) such amounts will be targeted to individuals who would not otherwise be able to afford health insurance coverage; and

(II) income, asset, and medical expense criteria will be established and applied by the State to identify those individuals who qualify for assistance under such program, and information concerning such criteria shall be made available to the public;

(C) the State will provide for periodic independent peer review to assess the quality and appropriateness of health and support services provided by entities that receive funds from the State under this part;

(D) the State will permit and cooperate with any Federal investigations undertaken regarding programs conducted under this part;

(E) the State will maintain HIV-related activities at a level that is equal to not less than the level of such expenditures by the State for the 1-year period preceding the fiscal year for which the State is applying

⁹ The word "section" probably should appear before "2615". Section 12(c)(3) of Public Law 104-146 (110 Stat. 1373) provides that subsection (b)(3)(B)(iv) is amended by inserting "section" before "2615", but the amendment cannot be executed because the term "2615" does not appear in paragraph (3)(B)(iv). The term formerly did appear in such paragraph, but former paragraph (3) was redesignated as paragraph (4) by section 3(c)(4)(B) of such Public Law (110 Stat. 1355).

to receive a grant under this part;

(F) the State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

(i) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(ii) by an entity that provides health services on a prepaid basis; and

(G) entities within areas in which activities under the grant are carried out will maintain appropriate relationships with entities in the area served that constitute key points of access to the health care system for individuals with HIV disease (including emergency rooms, substance abuse treatment programs, detoxification centers, adult and juvenile detention facilities, sexually transmitted disease clinics, HIV counseling and testing sites, mental health programs, and homeless shelters), and other entities under section 2612(c) and 2652(a), for the purposes of facilitating early intervention for individuals newly diagnosed with HIV disease and individuals knowledgeable of their HIV status but not in care.

(c) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.—

(1) IN GENERAL.—The Secretary may not make a grant under section 2611 to a State unless the State provides assurances that in the provision of services with assistance provided under the grant—

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider—

(i) will impose charges on each such individual for the provision of such services; and

(ii) will impose charges according to a schedule of charges that is made available to the public;

(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose

charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(2) ASSESSMENT OF CHARGE.—With respect to compliance with the assurance made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules regarding limitation on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

(3) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.—The Secretary may not make a grant under section 2611 unless the applicant of the grant agrees that the limitations established in subparagraphs (C), (D), and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

(4) WAIVER.—

(A) IN GENERAL.—The State shall waive the requirements established in paragraphs (1) through (3) in the case of an entity that does not, in providing health care services, impose a charge or accept reimbursement from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) DETERMINATION.—A determination by the State of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

(d) REQUIREMENT OF MATCHING FUNDS REGARDING STATE ALLOTMENTS.—

(1) IN GENERAL.—In the case of any State to which the criterion described in paragraph (3) applies, the Secretary may not make a grant under this part unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the program for which the grant was awarded, the State will, subject to subsection (b)(2), make available (directly or through donations from public or private entities) non-Federal

contributions toward such costs in an amount equal to—

(A) for the first fiscal year of payments under the grant, not less than $16\frac{2}{3}$ percent of such costs (\$1 for each \$5 of Federal funds provided in the grant);

(B) for any second fiscal year of such payments, not less than 20 percent of such costs (\$1 for each \$4 of Federal funds provided in the grant);

(C) for any third fiscal year of such payments, not less than 25 percent of such costs (\$1 for each \$3 of Federal funds provided in the grant);

(D) for any fourth fiscal year of such payments, not less than $33\frac{1}{3}$ percent of such costs (\$1 for each \$2 of Federal funds provided in the grant); and

(E) for any subsequent fiscal year of such payments, not less than $33\frac{1}{3}$ percent of such costs (\$1 for each \$2 of Federal funds provided in the grant).

(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

(A) IN GENERAL.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(B) INCLUSION OF CERTAIN AMOUNTS.—

(i) In making a determination of the amount of non-Federal contributions made by a State for purposes of paragraph (1), the Secretary shall, subject to clause (ii), include any non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this title;

(ii) In making a determination for purposes of clause (i), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this title (except for the program established in this part) or under other provisions of law.

(3) APPLICABILITY OF REQUIREMENT.—

(A) NUMBER OF CASES.—A State referred to in paragraph (1) is any State for which the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the period described in subparagraph (B) constitutes in excess of 1 percent of the aggregate number of such cases reported to and confirmed by the Director for such period for the United States.

(B) PERIOD OF TIME.—The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under subsection (a).

(C) PUERTO RICO.—For purposes of paragraph (1), the number of cases of acquired immune deficiency syndrome reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent.

(4) DIMINISHED STATE CONTRIBUTION.—With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in paragraph (1), the State shall continue to be eligible to receive Federal funds under a grant under this part, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

SEC. 2618. [300ff-28] DISTRIBUTION OF FUNDS.

(a) AMOUNT OF GRANT TO STATE.—

(1) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available under section 2677, the amount of a grant to be made under this part for—

(A) each of the several States and the District of Columbia for a fiscal year shall be the greater of—

(i)(I) with respect to a State or District that has less than 90 living cases of acquired immune deficiency syndrome, as determined under paragraph (2)(D), **\$200,000**; or

(II) with respect to a State or District that has 90 or more living cases of acquired immune deficiency syndrome, as determined under paragraph (2)(D), **\$500,000**;

(ii) an amount determined under paragraph (2) **and then, as applicable, increased under paragraph (2)(H)**; and

(B) each territory of the United States, as defined in paragraph (3), shall be **the greater of \$50,000 or** an amount determined under paragraph (2).

(2) DETERMINATION.—

(A) FORMULA.—The amount referred to in paragraph (1)(A)(ii) for a State and paragraph (1)(B) for a territory of the United States shall be the product of—

(i) an amount equal to the amount appropriated under section 2677 for the fiscal year involved for grants under part B, subject to **subparagraphs (H) and (I)**; and

(ii) the percentage constituted by the sum of—

(I) the product of .80 and the ratio of the State distribution factor for the State or territory (as determined

under subsection (B)) to the sum of the respective State distribution factors for all States or territories; and

(II) the product of .20 and the ratio of the non-EMA distribution factor for the State or territory (as determined under subparagraph (C)) to the sum of the respective distribution factors for all States or territories.

(B) STATE DISTRIBUTION FACTOR.—For purposes of subparagraph (A)(ii)(I), the term “State distribution factor” means an amount equal to the estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved, as determined under subparagraph (D).

(C) NON-EMA DISTRIBUTION FACTOR.—For purposes of subparagraph (A)(ii)(II), the term “non-ema distribution factor” means an amount equal to the sum of—

(i) the estimated number of living cases of acquired immune deficiency syndrome in the State or territory involved, as determined under subparagraph (D); less

(ii) the estimated number of living cases of acquired immune deficiency syndrome in such State or territory that are within an eligible area (as determined under part A).

(D) ESTIMATE OF LIVING CASES.—The amount determined in this subparagraph is an amount equal to the product of—

(i) the number of cases of acquired immune deficiency syndrome in the State or territory during each year in the most recent 120-month period for which data are available with respect to all States and territories, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for each year during such period, **except that (subject to subparagraph (E)), for grants made pursuant to this paragraph or section 2620 for fiscal year 2005 and subsequent fiscal years, the cases counted for each 12-month period beginning on or after July 1, 2004, shall be cases of HIV disease (as reported to and confirmed by such Director) rather than cases of acquired immune deficiency syndrome;** and

(ii) with respect to each of the first through the tenth year during such period, the amount referred to in section 2603(a)(3)(C)(ii).

(E) DETERMINATION OF SECRETARY REGARDING DATA ON HIV CASES.—**If under section 2603(a)(3)(D)(i) the Secretary determines that data on cases of HIV disease are not sufficiently accurate and reliable, then notwithstanding subparagraph (D) of this paragraph, for any fiscal year prior to fiscal year 2007 the references in such**

subparagraph to cases to HIV disease do not have any legal effect.

(F) PUERTO RICO, VIRGIN ISLANDS, GUAM.—For purposes of subparagraph (D), the cost index for Puerto Rico, the Virgin Islands, and Guam shall be 1.0.

(G) UNEXPENDED FUNDS.—The Secretary may, in determining the amount of a grant for a fiscal year under this subsection, adjust the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the fiscal year preceding the year for which the grant determination is to be made. The amount of any such unexpended funds shall be determined using the financial status report of the grantee.

(H) LIMITATION.—

(i) **IN GENERAL.—The Secretary shall ensure that the amount of a grant awarded to a State or territory under section 2611 or subparagraph (I)(i) for a fiscal year is not less than—**

(I) with respect to fiscal year 2001, 99 percent;

(II) with respect to fiscal year 2002, 98 percent;

(III) with respect to fiscal year 2003, 97 percent;

(IV) with respect to fiscal year 2004, 96 percent; and

(V) with respect to fiscal year 2005, 95 percent,

of the amount such State or territory received for fiscal year 2000 under section 2611 or subparagraph (I)(i), respectively (notwithstanding such subparagraph). In administering this subparagraph, the Secretary shall, with respect to States or territories that will under such section receive grants in amounts that exceed the amounts that such States received under such section or subparagraph for fiscal year 2000, proportionally reduce such amounts to ensure compliance with this subparagraph. In making such reductions, the Secretary shall ensure that no such State receives less than that State received for fiscal year 2000.

(ii) **RATABLE REDUCTION.—If the amount appropriated under section 2677 for a fiscal year and available for grants under section 2611 or subparagraph (I)(i) is less than the amount appropriated and available for fiscal year 2000 under section 2611 or subparagraph (I)(i), respectively, the limitation contained in clause (i) for the grants involved shall be reduced by a percentage equal to the percentage of the reduction in such amounts appropriated and available.**

(I) **APPROPRIATIONS FOR TREATMENT DRUG PROGRAM.—**

(i) **FORMULA GRANTS.—With respect to the fiscal year involved, if under section 2677 an appropriations Act provides an**

amount exclusively for carrying out section 2616, the portion of such amount allocated to a State shall be the product of—

(I) 100 percent of such amount, less the percentage reserved under clause (ii)(V); and

(II) the percentage constituted by the ratio of the State distribution factor for the State (as determined under subparagraph (B)) to the sum of the State distribution factors for all States.

(ii) SUPPLEMENTAL TREATMENT DRUG GRANTS.—

(I) IN GENERAL.—From amounts made available under subclause (V), the Secretary shall make supplemental grants to States described in subclause (II) to enable such States to increase access to therapeutics described in section 2616(a), as provided by the State under section 2616(c)(2).

(II) ELIGIBLE STATES.—For purposes of subclause (I), a State described in this subclause is a State that, in accordance with criteria established by the Secretary, demonstrates a severe need for a grant under such subclause. In developing such criteria, the Secretary shall consider eligibility standards, formulary composition, and the number of eligible individuals at or below 200 percent of the official poverty line to whom the State is unable to provide therapeutics described in section 2616(a).

(III) STATE REQUIREMENTS.—The Secretary may not make a grant to a State under this clause unless the State agrees that—

(aa) the State will make available (directly or through donations from public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to \$1 for each \$4 of Federal funds provided in the grant; and

(bb) the State will not impose eligibility requirements for services or scope of benefits limitations under section 2616(a) that are more restrictive than such requirements in effect as of January 1, 2000.

(IV) USE AND COORDINATION.—Amounts made available under a grant under this clause shall only be used by the State to provide HIV/AIDS-related medications. The State shall coordinate the use of such amounts with the amounts otherwise provided under

section 2616(a) in order to maximize drug coverage.

(V) FUNDING.—For the purpose of making grants under this clause, the Secretary shall each fiscal year reserve 3 percent of the amount referred to in clause (i) with respect to section 2616, subject to subclause (VI).

(VI) LIMITATION.—In reserving amounts under subclause (V) and making grants under this clause for a fiscal year, the Secretary shall ensure for each State that the total of the grant under section 2611 for the State for the fiscal year and the grant under clause (i) for the State for the fiscal year is not less than such total for the State for the preceding fiscal year.

(3) DEFINITIONS.—As used in this subsection—

(A) the term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam; and

(B) the term “territory of the United States” means,¹⁰ American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and only for purposes of paragraph (1) the Commonwealth of Puerto Rico.

(b) ALLOCATION OF ASSISTANCE BY STATES.—

(2)¹¹ ALLOWANCES.—Prior to allocating assistance under this subsection, a State shall consider the unmet needs of those areas that have not received financial assistance under part A.

(3) PLANNING AND EVALUATIONS.—Subject to paragraph (5) and except as provided in paragraph (6), a State may not use more than 10 percent of amounts received under a grant awarded under this part for planning and evaluation activities.

(4) ADMINISTRATION.—

(A) IN GENERAL.—Subject to paragraph (5) and except as provided in paragraph (6), a State may not use more than 10 percent of amounts received under a grant awarded under this part for administration. In the case of entities and subcontractors to which the State allocates amounts received by the State under the grant (including consortia under section 2613), the State shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).

(B) ADMINISTRATIVE ACTIVITIES.—For the purposes of

¹⁰ The comma is so in law. See section 417(2) of Public Law 105-392 (112 Stat. 3591).

¹¹ Paragraph (1) was struck by section 3(c)(5)(A) of Public Law 104-146 (110 Stat. 1355).

subparagraph (A), amounts may be used for administrative activities that include routine grant administration and monitoring activities.

(C) **SUBCONTRACTOR ADMINISTRATIVE COSTS.**—For the purposes of this paragraph, subcontractor administrative activities include—

(i) usual and recognized overhead, including established indirect rates for agencies;

(ii) management oversight of specific programs funded under this title; and

(iii) other types of program support such as quality assurance, quality control, and related activities.

(5) **LIMITATION ON USE OF FUNDS.**—Except as provided in paragraph (6), a State may not use more than a total of 15 percent of amounts received under a grant awarded under this part for the purposes described in paragraphs (3) and (4).

(6) **EXCEPTION.**—With respect to a State that receives the minimum allotment under subsection (a)(1) for a fiscal year, such State, from the amounts received under a grant awarded under this part for such fiscal year for the activities described in paragraphs (3) and (4), may, notwithstanding paragraphs (3), (4), and (5), use not more than that amount required to support one full-time-equivalent employee.

(7) **CONSTRUCTION.**—A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

(c) **EXPEDITED DISTRIBUTION.**—

(1) **IN GENERAL.**—Not less than 75 percent of the amounts received under a grant awarded to a State under this part shall be obligated to specific programs and projects and made available for expenditure not later than—

(A) in the case of the first fiscal year for which amounts are received, 150 days after the receipt of such amounts by the State; and

(B) in the case of succeeding fiscal years, 120 days after the receipt of such amounts by the State.

(2) **PUBLIC COMMENT.**—Within the time periods referred to in paragraph (1), the State shall invite and receive public comment concerning methods for the utilization of such amounts.

(d) **REALLOCATION.**—Any amounts appropriated in any fiscal year and made available to a State under this part that have not been obligated as described in subsection (d) shall be repaid to the Secretary and reallocated to other States in proportion to the original grants made to such States.

SEC. 2619. [300ff-29] TECHNICAL ASSISTANCE.

The Secretary shall provide technical assistance in administering and coordinating the activities authorized under section 2612, including technical assistance for the development and implementation of statewide coordinated statements of need.

SEC. 2620. [300ff-30] SUPPLEMENTAL GRANTS.

(a) **IN GENERAL.**—The Secretary shall award supplemental grants to States determined to be eligible under subsection (b) to enable such States to provide comprehensive services of the type described in section 2612(a) to supplement the services otherwise provided by the State under a grant under this subpart in emerging communities within the State that are not eligible to receive grants under part A.

(b) **ELIGIBILITY.**—To be eligible to receive a supplemental grant under subsection (a), a State shall—

(1) be eligible to receive a grant under this subpart;

(2) demonstrate the existence in the State of an emerging community as defined in subsection (d)(1); and

(3) submit the information described in subsection (c).

(c) **REPORTING REQUIREMENTS.**—A State that desires a grant under this section shall, as part of the State application submitted under section 2617, submit a detailed description of the manner in which the State will use amounts received under the grant and of the severity of need. Such description shall include—

(1) a report concerning the dissemination of supplemental funds under this section and the plan for the utilization of such funds in the emerging community;

(2) a demonstration of the existing commitment of local resources, both financial and in-kind;

(3) a demonstration that the State will maintain HIV-related activities at a level that is equal to not less than the level of such activities in the State for the 1-year period preceding the fiscal year for which the State is applying to receive a grant under this part;

(4) a demonstration of the ability of the State to utilize such supplemental financial resources in a manner that is immediately responsive and cost effective;

(5) a demonstration that the resources will be allocated in accordance with the local demographic incidence of AIDS including appropriate allocations for services for infants, children, women, and families with HIV disease;

(6) a demonstration of the inclusiveness of the planning process, with particular emphasis on affected communities and individuals with HIV disease; and

(7) a demonstration of the manner in which the proposed services

are consistent with local needs assessments and the statewide coordinated statement of need.

(d) **DEFINITION OF EMERGING COMMUNITY.**—In this section, the term ‘emerging community’ means a metropolitan area—

(1) that is not eligible for a grant under part A; and

(2) for which there has been reported to the Director of the Centers for Disease Control and Prevention a cumulative total of between 500 and 1,999 cases of acquired immune deficiency syndrome for the most recent period of 5 calendar years for which such data are available (except that, for fiscal year 2005 and subsequent fiscal years, cases of HIV disease shall be counted rather than cases of acquired immune deficiency syndrome if cases of HIV disease are being counted for purposes of section 2618(a)(2)(D)(i)).

(e) **FUNDING.**—

(1) **IN GENERAL.**—Subject to paragraph (2), with respect to each fiscal year beginning with fiscal year 2001, the Secretary, to carry out this section, shall utilize—

(A) the greater of—

(i) 25 percent of the amount appropriated under section 2677 to carry out part B, excluding the amount appropriated under section 2618(a)(2)(I), for such fiscal year that is in excess of the amount appropriated to carry out such part in the fiscal year preceding the fiscal year involved; or

(ii) \$5,000,000,

to provide funds to States for use in emerging communities with at least 1,000, but less than 2,000, cases of AIDS as reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the five year period preceding the year for which the grant is being awarded; and

(B) the greater of—

(i) 25 percent of the amount appropriated under section 2677 to carry out part B, excluding the amount appropriated under section 2618(a)(2)(I), for such fiscal year that is in excess of the amount appropriated to carry out such part in the fiscal year preceding the fiscal year involved; or

(ii) \$5,000,000,

to provide funds to States for use in emerging communities with at least 500, but less than 1,000, cases of AIDS reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the five year period preceding the year for which the grant is being awarded.

(2) **TRIGGER OF FUNDING.**—This section shall be effective only for fiscal years beginning in the first fiscal year in which the amount

appropriated under section 2677 to carry out part B, excluding the amount appropriated under section 2618(a)(2)(I), exceeds by at least \$20,000,000 the amount appropriated under section 2677 to carry out part B in fiscal year 2000, excluding the amount appropriated under section 2618(a)(2)(I).

(3) **MINIMUM AMOUNT IN FUTURE YEARS.**—Beginning with the first fiscal year in which amounts provided for emerging communities under paragraph (1)(A) equals \$5,000,000 and under paragraph (1)(B) equals \$5,000,000, the Secretary shall ensure that amounts made available under this section for the types of emerging communities described in each such paragraph in subsequent fiscal years is at least \$5,000,000.

(4) **DISTRIBUTION.**—Grants under this section for emerging communities shall be formula grants. There shall be two categories of such formula grants, as follows:

(A) One category of such grants shall be for emerging communities for which the cumulative total of cases for purposes of subsection (d)(2) is 999 or fewer cases. The grant made to such an emerging community for a fiscal year shall be the product of—

(i) an amount equal to 50 percent of the amount available pursuant to this subsection for the fiscal year involved; and

(ii) a percentage equal to the ratio constituted by the number of cases for such emerging community for the fiscal year over the aggregate number of such cases for such year for all emerging communities to which this subparagraph applies.

(B) The other category of formula grants shall be for emerging communities for which the cumulative total of cases for purposes of subsection (d)(2) is 1,000 or more cases. The grant made to such an emerging community for a fiscal year shall be the product of—

(i) an amount equal to 50 percent of the amount available pursuant to this subsection for the fiscal year involved; and

(ii) a percentage equal to the ratio constituted by the number of cases for such community for the fiscal year over the aggregate number of such cases for the fiscal year for all emerging communities to which this subparagraph applies.

Subpart II—Provisions Concerning Pregnancy and Perinatal Transmission of HIV

SEC. 2625. [300ff-33] CDC GUIDELINES FOR PREGNANT WOMEN.

(a) **REQUIREMENT.**—Notwithstanding any other provision of law, a State shall, not later than 120 days after the date of enactment of this subpart, certify to the Secretary that such State has in effect regulations or measures to adopt the guidelines issued by the Centers for Disease Control and Prevention concerning

recommendations for human immunodeficiency virus counseling and voluntary testing for pregnant women.

(b) **NONCOMPLIANCE.**—If a State does not provide the certification required under subsection (a) within the 120-day period described in such subsection, such State shall not be eligible to receive assistance for HIV counseling and testing under this section until such certification is provided.

(c) **ADDITIONAL FUNDS REGARDING WOMEN AND INFANTS.**—

(1) **IN GENERAL.**—If a State provides the certification required in subsection (a) and is receiving funds under part B for a fiscal year, the Secretary may (from the amounts available pursuant to paragraph (2)) make a grant to the State for the fiscal year for the following purposes:

(A) Making available to pregnant women appropriate counseling on HIV disease.

(B) Making available outreach efforts to pregnant women at high risk of HIV who are not currently receiving prenatal care.

(C) Making available to such women voluntary HIV testing for such disease.

(D) Offsetting other State costs associated with the implementation of this section and subsections (a) and (b) of section 2626.

(E) Offsetting State costs associated with the implementation of mandatory newborn testing in accordance with this title or at an earlier date than is required by this title.

(F) **Making available to pregnant women with HIV disease, and to the infants of women with such disease, treatment services for such disease in accordance with applicable recommendations of the Secretary.**

(2) **FUNDING.**—

(A) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this subsection, there are authorized to be appropriated \$30,000,000 for each of the fiscal years 2001 through 2005. Amounts made available under section 2677 for carrying out this part are not available for carrying out this section unless otherwise authorized.

(B) **ALLOCATIONS FOR CERTAIN STATES.**—

(i) **IN GENERAL.**—Of the amounts appropriated under subparagraph (A) for a fiscal year in excess of \$10,000,000—

(I) the Secretary shall reserve the applicable percentage under clause (iv) for making grants under paragraph (1) both to States described in clause (ii) and States described in clause (iii); and

(II) the Secretary shall reserve the remaining amounts for other States, taking into consideration the factors

described in subparagraph (C)(iii), except that this subclause does not apply to any State that for the fiscal year involved is receiving amounts pursuant to subclause (I).

(ii) **REQUIRED TESTING OF NEWBORNS.**—For purposes of clause (i)(I), the States described in this clause are States that under law (including under regulations or the discretion of State officials) have—

(I) a requirement that all newborn infants born in the State be tested for HIV disease and that the biological mother of each such infant, and the legal guardian of the infant (if other than the biological mother), be informed of the results of the testing; or

(II) a requirement that newborn infants born in the State be tested for HIV disease in circumstances in which the attending obstetrician for the birth does not know the HIV status of the mother of the infant, and that the biological mother of each such infant, and the legal guardian of the infant (if other than the biological mother), be informed of the results of the testing.

(iii) **MOST SIGNIFICANT REDUCTION IN CASES OF PERINATAL TRANSMISSION.**—For purposes of clause (i)(I), the States described in this clause are the following (exclusive of States described in clause (ii)), as applicable:

(I) For fiscal years 2001 and 2002, the two States that, relative to other States, have the most significant reduction in the rate of new cases of the perinatal transmission of HIV (as indicated by the number of such cases reported to the Director of the Centers for Disease Control and Prevention for the most recent periods for which the data are available).

(II) For fiscal years 2003 and 2004, the three States that have the most significant such reduction.

(III) For fiscal year 2005, the four States that have the most significant such reduction.

(iv) **APPLICABLE PERCENTAGE.**—For purposes of clause (i), the applicable amount for a fiscal year is as follows:

(I) For fiscal year 2001, 33 percent.

(II) For fiscal year 2002, 50 percent.

(III) For fiscal year 2003, 67 percent.

(IV) For fiscal year 2004, 75 percent.

(V) For fiscal year 2005, 75 percent.

(C) **CERTAIN PROVISIONS.**—With respect to grants under

paragraph (1) that are made with amounts reserved under subparagraph (B) of this paragraph:

(i) Such a grant may not be made in an amount exceeding \$4,000,000.

(ii) If pursuant to clause (i) or pursuant to an insufficient number of qualifying applications for such grants (or both), the full amount reserved under subparagraph (B) for a fiscal year is not obligated, the requirement under such subparagraph to reserve amounts ceases to apply.

(iii) In the case of a State that meets the conditions to receive amounts reserved under subparagraph (B)(i)(II), the Secretary shall in making grants consider the following factors:

(I) The extent of the reduction in the rate of new cases of the perinatal transmission of HIV.

(II) The extent of the reduction in the rate of new cases of perinatal cases of acquired immune deficiency syndrome.

(III) The overall incidence of cases of infection with HIV among women of childbearing age.

(IV) The overall incidence of cases of acquired immune deficiency syndrome among women of childbearing age.

(V) The higher acceptance rate of HIV testing of pregnant women.

(VI) The extent to which women and children with HIV disease are receiving HIV-related health services.

(VII) The extent to which HIV-exposed children are receiving health services appropriate to such exposure.

(3) PRIORITY.—In awarding grants under this subsection the Secretary shall give priority to States that have the greatest proportion of HIV seroprevalance among child bearing women using the most recent data available as determined by the Centers for Disease Control and Prevention.

(4) MAINTENANCE OF EFFORT.—A condition for the receipt of a grant under paragraph (1) is that the State involved agree that the grant will be used to supplement and not supplant other funds available to the State to carry out the purposes of the grant.¹²

¹² Section 212 of Public Law 106-345 provides "(b) SPECIAL FUNDING RULE FOR FISCAL YEAR 2001 – (1) IN GENERAL. –If for fiscal year 2001 the amount appropriated under paragraph (2)(A) of section 2625(c) of the Public Health Service Act is less than \$14,000,000– (A) the Secretary of Health and Human Services shall, for the purpose of making grants under paragraph (1) of such section, reserve from the amount specified in paragraph (2) of this subsection an amount equal to the difference between \$14,000,000 and the amount appropriated under paragraph (2)(A) of such section for such fiscal year (notwithstanding any other provision of this Act or the amendments

SEC. 2626. [300ff-34] PERINATAL TRANSMISSION OF HIV DISEASE; CONTINGENT REQUIREMENT REGARDING STATE GRANTS UNDER THIS PART.

(a) ANNUAL DETERMINATION OF REPORTED CASES.—A State shall annually determine the rate of reported cases of AIDS as a result of perinatal transmission among residents of the State.

(b) CAUSES OF PERINATAL TRANSMISSION.—In determining the rate under subsection (a), a State shall also determine the possible causes of perinatal transmission. Such causes may include—

(1) the inadequate provision within the State of prenatal counseling and testing in accordance with the guidelines issued by the Centers for Disease Control and Prevention;

(2) the inadequate provision or utilization within the State of appropriate therapy or failure of such therapy to reduce perinatal transmission of HIV, including—

(A) that therapy is not available, accessible or offered to mothers;

or

(B) that available therapy is offered but not accepted by mothers;

or

(3) other factors (which may include the lack of prenatal care) determined relevant by the State.

(c) CDC REPORTING SYSTEM.—Not later than 4 months after the date of enactment of this subpart, the Director of the Centers for Disease Control and Prevention shall develop and implement a system to be used by States to comply with the requirements of subsections (a) and (b). The Director shall issue guidelines to ensure that the data collected is statistically valid.

SEC. 2627. [300ff-37] STATE HIV TESTING PROGRAMS ESTABLISHED PRIOR TO OR AFTER ENACTMENT.

Nothing in this subpart shall be construed to disqualify a State from receiving grants under this title if such State has established at any time prior to or after the date of enactment of this subpart a program of mandatory HIV testing.

SEC. 2628. [300ff-37a] RECOMMENDATIONS FOR REDUCING

made by this Act); (B) the amount so reserved shall, for purposes of paragraph (2)(B)(i) of such section, be considered to have been appropriated under paragraph (2)(A) of such section; and (C) the percentage specified in paragraph (2)(B)(iv)(I) of such section is deemed to be 50 percent. (2) ALLOCATION FROM INCREASES IN FUNDING FOR PART B.--For purposes of paragraph (1), the amount specified in this paragraph is the amount by which the amount appropriated under section 2677 of the Public Health Service Act for fiscal year 2001 and available for grants under section 2611 of such Act is an increase over the amount so appropriated and available for fiscal year 2000."

INCIDENCE OF PERINATAL TRANSMISSION.

(a) STUDY BY INSTITUTE OF MEDICINE.—

(1) **IN GENERAL.**—The Secretary shall request the Institute of Medicine to enter into an agreement with the Secretary under which such Institute conducts a study to provide the following:

(A) For the most recent fiscal year for which the information is available, a determination of the number of newborn infants with HIV born in the United States with respect to whom the attending obstetrician for the birth did not know the HIV status of the mother.

(B) A determination for each State of any barriers, including legal barriers, that prevent or discourage an obstetrician from making it a routine practice to offer pregnant women an HIV test and a routine practice to test newborn infants for HIV disease in circumstances in which the obstetrician does not know the HIV status of the mother of the infant.

(C) Recommendations for each State for reducing the incidence of cases of the perinatal transmission of HIV, including recommendations on removing the barriers identified under subparagraph (B).

If such Institute declines to conduct the study, the Secretary shall enter into an agreement with another appropriate public or nonprofit private entity to conduct the study.

(2) **REPORT.**—The Secretary shall ensure that, not later than 18 months after the effective date of this section, the study required in paragraph (1) is completed and a report describing the findings made in the study is submitted to the appropriate committees of the Congress, the Secretary, and the chief public health official of each of the States.

(b) **PROGRESS TOWARD RECOMMENDATIONS.**—In fiscal year 2004, the Secretary shall collect information from the States describing the actions taken by the States toward meeting the recommendations specified for the States under subsection (a)(1)(C).

(c) **SUBMISSION OF REPORTS TO CONGRESS.**—The Secretary shall submit to the appropriate committees of the Congress reports describing the information collected under subsection (b).

Subpart III—Certain Partner Notification Programs

SEC. 2631. [300ff-38] GRANTS FOR PARTNER NOTIFICATION PROGRAMS.

(a) **IN GENERAL.**—In the case of States whose laws or regulations are in accordance with subsection (b), the Secretary, subject to subsection (c)(2),

may make grants to the States for carrying out programs to provide partner counseling and referral services.

(b) **DESCRIPTION OF COMPLIANT STATE PROGRAMS.**—For purposes of subsection (a), the laws or regulations of a State are in accordance with this subsection if under such laws or regulations (including programs carried out pursuant to the discretion of State officials) the following policies are in effect:

(1) The State requires that the public health officer of the State carry out a program of partner notification to inform partners of individuals with HIV disease that the partners may have been exposed to the disease.

(2)(A) In the case of a health entity that provides for the performance on an individual of a test for HIV disease, or that treats the individual for the disease, the State requires, subject to subparagraph (B), that the entity confidentially report the positive test results to the State public health officer in a manner recommended and approved by the Director of the Centers for Disease Control and Prevention, together with such additional information as may be necessary for carrying out such program.

(B) The State may provide that the requirement of subparagraph (A) does not apply to the testing of an individual for HIV disease if the individual underwent the testing through a program designed to perform the test and provide the results to the individual without the individual disclosing his or her identity to the program. This subparagraph may not be construed as affecting the requirement of subparagraph (A) with respect to a health entity that treats an individual for HIV disease.

(3) The program under paragraph (1) is carried out in accordance with the following:

(A) Partners are provided with an appropriate opportunity to learn that the partners have been exposed to HIV disease, subject to subparagraph (B).

(B) The State does not inform partners of the identity of the infected individuals involved.

(C) Counseling and testing for HIV disease are made available to the partners and to infected individuals, and such counseling includes information on modes of transmission for the disease, including information on prenatal and perinatal transmission and preventing transmission.

(D) Counseling of infected individuals and their partners includes the provision of information regarding therapeutic measures for preventing and treating the deterioration of the immune system and conditions arising from the disease, and the

provision of other prevention-related information.

(E) Referrals for appropriate services are provided to partners and infected individuals, including referrals for support services and legal aid.

(F) Notifications under subparagraph (A) are provided in person, unless doing so is an unreasonable burden on the State.

(G) There is no criminal or civil penalty on, or civil liability for, an infected individual if the individual chooses not to identify the partners of the individual, or the individual does not otherwise cooperate with such program.

(H) The failure of the State to notify partners is not a basis for the civil liability of any health entity who under the program reported to the State the identity of the infected individual involved.

(I) The State provides that the provisions of the program may not be construed as prohibiting the State from providing a notification under subparagraph (A) without the consent of the infected individual involved.

(4) The State annually reports to the Director of the Centers for Disease Control and Prevention the number of individuals from whom the names of partners have been sought under the program under paragraph (1), the number of such individuals who provided the names of partners, and the number of partners so named who were notified under the program.

(5) The State cooperates with such Director in carrying out a national program of partner notification, including the sharing of information between the public health officers of the States.

(c) REPORTING SYSTEM FOR CASES OF HIV DISEASE; PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to States whose reporting systems for cases of HIV disease produce data on such cases that is sufficiently accurate and reliable for use for purposes of section 2618(a)(2)(D)(i).

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$30,000,000 for fiscal year 2001, and such sums as may be necessary for each of the fiscal years 2002 through 2005.

PART C—EARLY INTERVENTION SERVICES

Subpart I—Categorical Grants

SEC. 2651. [300ff-51] ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—For the purposes described in subsection (b), the

Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in section 2652(a).

(b) PURPOSES OF GRANTS.—

(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to expend the grant for the purposes of providing, on an outpatient basis, each of the early intervention services specified in paragraph (2) with respect to HIV disease, and unless the applicant agrees to expend not less than 50 percent of the grant for such services that are specified in subparagraphs (B) through (E) of such paragraph for individuals with HIV disease.

(2) SPECIFICATION OF EARLY INTERVENTION SERVICES.—The early intervention services referred to in paragraph (1) are—

(A) counseling individuals with respect to HIV disease in accordance with section 2662;

(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

(C) referrals described in paragraph (3);

(D) other clinical and diagnostic services regarding HIV disease, and periodic medical evaluations of individuals with the disease;

(E) providing the therapeutic measures described in subparagraph (B).

(3) REFERRALS.—The services referred to in paragraph (2)(C) are referrals of individuals with HIV disease to appropriate providers of health and support services, including, as appropriate—

(A) to entities receiving amounts under part A or B for the provision of such services;

(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

(C) to grantees under section 2671, in the case of a pregnant woman.

(4) REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.—

(A) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement,

such a grantee may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area, under which the entities provide the services.

(B) OTHER REQUIREMENTS.—Grantees described in—

(i) paragraphs (1), (2), (5), and (6) of section 2652(a) shall use not less than 50 percent of the amount of such a grant to provide the services described in subparagraphs (A), (B), (D), and (E) of section 2651(b)(2) directly and on-site or at sites where other primary care services are rendered; and

(ii) paragraphs (3) and (4) of section 2652(a) shall ensure the availability of early intervention services through a system of linkages to community-based primary care providers, and to establish mechanisms for the referrals described in section 2651(b)(2)(C), and for follow-up concerning such referrals.

(5) OPTIONAL SERVICES.—A grantee under subsection (a)—

(A) may expend the grant to provide outreach services to individuals who may have HIV disease or may be at risk of the disease, and who may be unaware of the availability and potential benefits of early treatment of the disease, and to provide outreach services to health care professionals who may be unaware of such availability and potential benefits; and

(B) may, in the case of individuals who seek early intervention services from the grantee, expend the grant—

(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and

(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

(c) PARTICIPATION IN CERTAIN CONSORTIUM.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to make reasonable efforts to participate in a consortium established with a grant under section 2612(a)(1) regarding comprehensive services to individuals with HIV disease, if such a consortium exists in the geographic area with respect to which the applicant is applying to receive such a grant.

SEC. 2652. [300ff-52] MINIMUM QUALIFICATIONS OF GRANTEEES.

(a) IN GENERAL.—The entities referred to in section 2651(a) are public entities and nonprofit private entities that are—

(1) migrant health centers under section 329 or community health centers under section 330;

(2) grantees under section 340 (regarding health services for the homeless);

(3) grantees under section 1001 (regarding family planning) other than States;

(4) comprehensive hemophilia diagnostic and treatment centers;

(5) Federally-qualified health centers under section 1905(l)(2)(B) of the Social Security Act; or

(6) nonprofit private entities that provide comprehensive primary care services to populations at risk of HIV disease.

(b) STATUS AS MEDICAID PROVIDER.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not make a grant under section 2651 for the provision of services described in subsection (b) of such section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the applicant for the grant will enter into an agreement with a public or nonprofit private entity, or a private for-profit entity if such entity is the only available provider of quality HIV care in the area, under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

(A) In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) A determination by the Secretary of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

SEC. 2653. [300ff-53] PREFERENCES IN MAKING GRANTS.

(a) IN GENERAL.—In making grants under section 2651, the Secretary shall give preference to any qualified applicant experiencing an increase in the burden

of providing services regarding HIV disease, as indicated by the factors specified in subsection (b).

(b) SPECIFICATION OF FACTORS.—

(1) IN GENERAL.—In the case of the geographic area with respect to which the entity involved is applying for a grant under section 2651, the factors referred to in subsection (a), as determined for the period specified in paragraph (2), are—

(A) the number of cases of acquired immune deficiency syndrome;

(B) the rate of increase in such cases;

(C) the lack of availability of early intervention services;

(D) the number of other cases of sexually transmitted diseases, and the number of cases of tuberculosis and of drug abuse;

(E) the rate of increase in each of the cases specified in subparagraph (D);

(F) the lack of availability of primary health services from providers other than such applicant; and

(G) the distance between such area and the nearest community that has an adequate level of availability of appropriate HIV-related services, and the length of time required to travel such distance.

(2) RELEVANT PERIOD OF TIME.—The period referred to in paragraph (1) is the 2-year period preceding the fiscal year for which the entity involved is applying to receive a grant under section 2651.

(c) EQUITABLE ALLOCATIONS.—In providing preferences for purposes of subsection (b), the Secretary shall equitably allocate the preferences among urban and rural areas.

(d) CERTAIN AREAS.—Of the applicants who qualify for preference under this section—

(1) the Secretary shall give preference to applicants that will expend the grant under section 2651 to provide early intervention under such section in rural areas; and

(2) the Secretary shall give special consideration to areas that are underserved with respect to such services.

SEC. 2654. [300ff-54] MISCELLANEOUS PROVISIONS.

(a) SERVICES FOR INDIVIDUALS WITH HEMOPHILIA.—In making grants under section 2651, the Secretary shall ensure that any such grants made regarding the provision of early intervention services to individuals with hemophilia are made through the network of comprehensive hemophilia diagnostic and treatment centers.

(b) TECHNICAL ASSISTANCE.—The Secretary may, directly or through grants or contracts, provide technical assistance to nonprofit private entities regarding the process of submitting to the Secretary applications for grants

under section 2651, and may provide technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to such section.

(c) PLANNING AND DEVELOPMENT GRANTS.—

(1) IN GENERAL.—The Secretary may provide **planning grants to public and nonprofit private entities for purposes of—**

(A) **enabling such entities to provide HIV early intervention services; and**

(B) **assisting the entities in expanding their capacity to provide HIV-related health services, including early intervention services, in low-income communities and affected subpopulations that are underserved with respect to such services (subject to the condition that a grant pursuant to this subparagraph may not be expended to purchase or improve land, or to purchase, construct, or permanently improve, other than minor remodeling, any building or other facility).**

(2) REQUIREMENT.—The Secretary may only award a grant to an entity under paragraph (1) if the Secretary determines that the entity will use such grant to assist the entity in qualifying for a grant under section 2651.

(3) PREFERENCE.—In awarding grants under paragraph (1), the Secretary shall give preference to entities that provide primary care services in rural or underserved communities.

(4) AMOUNT AND DURATION OF GRANTS.—

(A) **EARLY INTERVENTION SERVICES.—A grant under paragraph (1)(A) may be made in an amount not to exceed \$50,000.**

(B) **CAPACITY DEVELOPMENT.—**

(i) **AMOUNT.—A grant under paragraph (1)(B) may be made in an amount not to exceed \$150,000.**

(ii) **DURATION.—The total duration of a grant under paragraph (1)(B), including any renewal, may not exceed 3 years.**

(5) **LIMITATION.—Not to exceed 5 percent of the amount appropriated for a fiscal year under section 2655 may be used to carry out this section.**

SEC. 2655. [300ff-55] AUTHORIZATION OF APPROPRIATIONS.

For the purpose of making grants under section 2651, there are authorized to be appropriated such sums as may be necessary **for each of the fiscal years 2001 through 2005.**

Subpart II—General Provisions

SEC. 2661. [300ff-61] CONFIDENTIALITY AND INFORMED CONSENT.

(a) CONFIDENTIALITY.—The Secretary may not make a grant under this part **unless, in the case of** any entity applying for a grant under section 2651, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

(b) INFORMED CONSENT.—

(1) IN GENERAL.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV disease, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone the counseling described in section 2662(a) and that the decision of the individual with respect to undergoing such testing is voluntarily made.

(2) PROVISIONS REGARDING ANONYMOUS TESTING.—

(A) If, pursuant to section 2664(b), an individual will undergo testing pursuant to this part through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual signs the statement described in such subsection using the pseudonym.

(B) If, pursuant to section 2664(b), an individual will undergo testing pursuant to this part without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual orally provides the declaration described in such paragraph.

SEC. 2662. [300ff-62] PROVISION OF CERTAIN COUNSELING SERVICES.

(a) COUNSELING BEFORE TESTING.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, before testing an individual for HIV disease, the applicant will provide to the individual appropriate counseling regarding the disease (based on the most recently available scientific data), including counseling on—

- (1) measures for the prevention of exposure to, and the transmission of, HIV;
- (2) the accuracy and reliability of the results of testing for HIV disease;
- (3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;
- (4) encouraging the individual, as appropriate, to undergo such testing;
- (5) the benefits of such testing, including the medical benefits of diagnosing HIV disease in the early stages and the medical benefits of receiving early intervention services during such stages;
- (6) provisions of law relating to the confidentiality of the process of

receiving such services, including information regarding any disclosures that may be authorized under applicable law and information regarding the availability of anonymous counseling and testing pursuant to section 2664(b); and

(7) provisions of applicable law relating to discrimination against individuals with HIV disease.

(b) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV disease indicate that an individual does not have the disease, the applicant will review for the individual the information provided pursuant to subsection (a), including—

(1) the information described in paragraphs (1) through (3) of such subsection; and

(2) the appropriateness of further counseling, testing, and education of the individual regarding such disease.

(c) COUNSELING OF INDIVIDUALS WITH POSITIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing for HIV disease indicate that the individual has the disease, the applicant will provide to the individual appropriate counseling regarding such disease, including—

(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding such disease; and

(3) providing **counseling**—

(A) **on** the availability, through the applicant, of early intervention services;

(B) **on** the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

(C)(i) **that explains the benefits** of locating and counseling any individual by whom the infected individual may have been exposed to HIV and any individual whom the infected individual may have exposed to HIV; and

(ii) **that emphasizes it is the duty of infected individuals to disclose their infected status to their sexual partners and their partners in the sharing of hypodermic needles; that provides advice to infected individuals on the manner in which such disclosures can be made; and that emphasizes that it is the continuing duty of the individuals to avoid any behaviors that will expose others to HIV.**

(D) **on** the availability of the services of public health authorities with respect to locating and counseling any individual described in

subparagraph (C).

(d) **ADDITIONAL REQUIREMENTS REGARDING APPROPRIATE COUNSELING.**—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV disease, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the individuals.

(e) **COUNSELING OF EMERGENCY RESPONSE EMPLOYEES.**—The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals with respect to HIV disease, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling.

(f) **RULE OF CONSTRUCTION REGARDING COUNSELING WITHOUT TESTING.**—Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV disease as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

SEC. 2663. [300ff-63] APPLICABILITY OF REQUIREMENTS REGARDING CONFIDENTIALITY, INFORMED CONSENT, AND COUNSELING.

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to testing for HIV disease, any such testing carried out by the applicant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 2661 and 2662.

SEC. 2664. [300ff-64] ADDITIONAL REQUIRED AGREEMENTS.

(a) **REPORTS TO SECRETARY.**—The Secretary may not make a grant under this part unless—

(1) the applicant submits to the Secretary—

(A) a specification of the expenditures made by the applicant for early intervention services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant; and

(B) an estimate of the number of individuals to whom the applicant has provided such services for such fiscal year; and

(2) the applicant agrees to submit to the Secretary a report providing—

(A) the number of individuals to whom the applicant provides early intervention services pursuant to the grant;

(B) epidemiological and demographic data on the population of such individuals;

(C) the extent to which the costs of HIV-related health care for

such individuals are paid by third-party payors;

(D) the average costs of providing each category of early intervention service; and

(E) the aggregate amounts expended for each such category.

(b) **PROVISION OF OPPORTUNITIES FOR ANONYMOUS COUNSELING AND TESTING.**—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, to the extent permitted under State law, regulation or rule, the applicant will offer substantial opportunities for an individual—

(1) to undergo counseling and testing regarding HIV disease without being required to provide any information relating to the identity of the individual; and

(2) to undergo such counseling and testing through the use of a pseudonym.

(c) **PROHIBITION AGAINST REQUIRING TESTING AS CONDITION OF RECEIVING OTHER HEALTH SERVICES.**—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing for HIV as a condition of receiving any health services unless such testing is medically indicated in the provision of the health services sought by the individual.

(d) **MAINTENANCE OF SUPPORT.**—The Secretary may not make a grant under this part unless the applicant for the grant agrees to maintain the expenditures of the applicant for early intervention services at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant.

(e) **REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.**—

(1) **IN GENERAL.**—The Secretary may not make a grant under this part unless, subject to paragraph (5), the applicant for the grant agrees that—

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the applicant will not impose a charge on any such individual for the provision of early intervention services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the applicant—

(i) will impose a charge on each such individual for the provision of such services; and

(ii) will impose the charge according to a schedule of charges that is made available to the public.

(2) **LIMITATION ON CHARGES REGARDING INDIVIDUALS SUBJECT TO CHARGES.**—With respect to the imposition of a charge for purposes of paragraph (1)(B)(ii), the Secretary may not make a grant under this part

unless, subject to paragraph (5), the applicant for the grant agrees that—

(A) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(B) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(C) in the case of individuals with an income greater than 300 percent of the official poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(3) ASSESSMENT OF CHARGE.—With respect to compliance with the agreement made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and of paragraph (2) regarding limitations on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

(4) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that the limitations established in paragraph (2) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or similar charges.

(5) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—The requirement established in paragraph (1)(B)(i) shall be waived by the Secretary in the case of any entity for whom the Secretary has granted a waiver under section 2652(b)(2).

(f) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—

(1) IN GENERAL.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, subject to paragraph (2), the grant will not be expended by the applicant, or by any entity receiving amounts from the applicant for the provision of early intervention services, to make payment for any such service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such

service—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis.

(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.—An agreement made under paragraph (1) shall not apply in the case of an entity through which a grantee under this part provides early intervention services if the Secretary has provided a waiver under section 2652(b)(2) regarding the entity.

(g) ADMINISTRATION OF GRANT.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that—

(1) the applicant will not expend amounts received pursuant to this part for any purpose other than the purposes described in the subpart under which the grant involved is made;

(2) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant;

(3) the applicant will not expend more than **10 percent** including planning and evaluation of the grant for administrative expenses with respect to the grant;

(4) the applicant will submit evidence that the proposed program is consistent with the statewide coordinated statement of need and agree to participate in the ongoing revision of such statement of need; and

(5) the applicant will provide for the establishment of a quality management program—

(A) to assess the extent to which medical services funded under this title that are provided to patients are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infections, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines; and

(B) to ensure that improvements in the access to and quality of HIV health services are addressed.

SEC. 2665. [300ff-65] REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

The Secretary may not make a grant under this part unless—

(1) an application for the grant is submitted to the Secretary containing agreements and assurances in accordance with this part and containing the information specified in section 2664(a)(1);

(2) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

SEC. 2666. [300ff-66] PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

(a) IN GENERAL.—Upon the request of a grantee under this part, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing early intervention services and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(b) LIMITATION.—With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under the grant involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

SEC. 2667. [300ff-67] USE OF FUNDS.

Counseling programs carried out under this part—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual;

(2) shall be designed to reduce exposure to and transmission of HIV disease by providing accurate information; and

(3) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

PART D—GENERAL PROVISIONS

SEC. 2671. [300ff-71] GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the National Institutes of Health, shall make grants to public and nonprofit private entities that provide primary care (directly or through contracts) for the following purposes:

(1) Providing through such entities, in accordance with this section, opportunities for women, infants, children, and youth to be voluntary participants in research of potential clinical benefit to individuals with HIV disease.

(2) In the case of women, infants, children, and youth with HIV disease, and the families of such individuals, providing to such

individuals—

(A) health care on an outpatient basis; and

(B) additional services in accordance with subsection (d).

(b) PROVISIONS REGARDING PARTICIPATION IN RESEARCH.—

(1) IN GENERAL.—With respect to the projects of research with which an applicant under subsection (a) is concerned, the Secretary may make a grant under such subsection to the applicant only if the following conditions are met:

(A) The applicant agrees to make reasonable efforts—

(i) to identify which of the patients of the applicant are women, infants, children, and youth who would be appropriate participants in the projects;

(ii) to carry out clause (i) through the use of criteria provided for such purpose by the entities that will be conducting the projects of research; and

(iii) to offer women, infants, children, and youth the opportunity to participate in the projects (as appropriate), including the provision of services under subsection (d)(3).

(B) The applicant agrees that, in the case of the research-related functions to be carried out by the applicant pursuant to subsection (a)(1), the applicant will comply with accepted standards that are applicable to such functions (including accepted standards regarding informed consent and other protections for human subjects).

(C) The applicant will demonstrate linkages to research and how access to such research is being offered to patients.

(2) PROHIBITION.—Receipt of services by a patient shall not be conditioned upon the consent of the patient to participate in research.

(c) PROVISIONS REGARDING CONDUCT OF RESEARCH.—

(1) IN GENERAL.—With respect to eligibility for a grant under subsection (a):

(A) A project of research for which subjects are sought pursuant to such subsection may be conducted by the applicant for the grant, or by an entity with which the applicant has made arrangements for purposes of the grant.

The grant may not be expended for the conduct of any project of research, except for such research-related functions as are appropriate for providing opportunities under subsection (a)(1) (including the functions specified in subsection (b)(1)).

(B) The grant may be made only if the Secretary makes the following determinations:

(i) The applicant or other entity (as the case may be under subparagraph (A)) is appropriately qualified to conduct the project of research. An entity shall be considered to be so qualified if any

research protocol of the entity has been recommended for funding under this Act pursuant to technical and scientific peer review through the National Institutes of Health.

(ii) The project of research is being conducted in accordance with a research protocol to which the Secretary gives priority regarding the prevention or treatment of HIV disease in women, infants, children, or youth, subject to paragraph (2).

(2) LIST OF RESEARCH PROTOCOLS.—

(A) IN GENERAL.—From among the research protocols described in paragraph (1)(B)(ii), the Secretary shall establish a list of research protocols that are appropriate for purposes of subsection (a)(1). Such list shall be established only after consultation with public and private entities that conduct such research, and with providers of services under subsection (a) and recipients of such services.

(B) DISCRETION OF SECRETARY.—The Secretary may authorize the use, for purposes of subsection (a)(1), of a research protocol that is not included on the list under subparagraph (A). The Secretary may waive the requirement specified in paragraph (1)(B)(ii) in such circumstances as the Secretary determines to be appropriate.

(d) ADDITIONAL SERVICES FOR PATIENTS AND FAMILIES.—A grant under subsection (a) may be made only if the applicant for the grant agrees as follows:

(1) The applicant will provide for the case management of the patient involved and the family of the patient.

(2) The applicant will provide for the patient and the family of the patient—

(A) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

(B) referrals for other social and support services, as appropriate.

(3) The applicant will provide the patient and the family of the patient with such transportation, child care, and other incidental services as may be necessary to enable the patient and the family to participate in the program established by the applicant pursuant to such subsection.

(4) The applicant will provide individuals with information and education on opportunities to participate in HIV/AIDS-related clinical research.

(e) COORDINATION WITH OTHER ENTITIES.—A grant under subsection (a) may be made only if the applicant for the grant agrees as follows:

(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act.

(2) The applicant will participate in the statewide coordinated statement of need under part B (where it has been initiated by the public health agency responsible for administering grants under part B) and in

revisions of such statement.

(f) ADMINISTRATION.—

(1) APPLICATION.—A grant under subsection (a) may be made only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(2) QUALITY MANAGEMENT PROGRAM.—A grantee under this section shall implement a quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

(g) COORDINATION WITH NATIONAL INSTITUTES OF HEALTH.—The Secretary shall develop and implement a plan that provides for the coordination of the activities of the National Institutes of Health with the activities carried out under this section. In carrying out the preceding sentence, the Secretary shall ensure that projects of research conducted or supported by such Institutes are made aware of applicants and grantees under subsection (a), shall require that the projects, as appropriate, enter into arrangements for purposes of such subsection, and shall require that each project entering into such an arrangement inform the applicant or grantee under such subsection of the needs of the project for the participation of women, infants, children, and youth. **The Secretary acting through the Director of NIH,¹³ shall examine the distribution and availability of ongoing and appropriate HIV/AIDS-related research projects to existing sites under this section for purposes of enhancing and expanding voluntary access to HIV-related research, especially within communities that are not reasonably served by such projects. Not later than 12 months after the date of the enactment of the Ryan White CARE Act Amendments of 2000, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the findings made by the Director and the manner in which the conclusions based on those findings can be addressed.**

(h) ANNUAL REVIEW OF PROGRAMS; EVALUATIONS.—

(1) REVIEW REGARDING ACCESS TO AND PARTICIPATION IN PROGRAMS.—With respect to a grant under subsection (a) for an entity for a fiscal year, the Secretary shall, not later than 180 days after the end of the fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection

¹³ The use of the abbreviation is so in law. See Section 401(d) of Public Law 106-345.

by the entity. The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

(A) Procedures used by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.

(B) Other procedures or policies of the entity regarding the participation of such individuals in such program.

(2) EVALUATIONS.—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

(i) LIMITATION ON ADMINISTRATIVE EXPENSES.—

(1) DETERMINATION BY SECRETARY.—Not later than 12 months after the date of the enactment of the Ryan White CARE Act Amendments of 2000, the Secretary, in consultation with grantees under this part, shall conduct a review of the administrative, program support, and direct service-related activities that are carried out under this part to ensure that eligible individuals have access to quality, HIV-related health and support services and research opportunities under this part, and to support the provision of such services.

(2) REQUIREMENTS.—

(A) IN GENERAL.—Not later than 180 days after the expiration of the 12-month period referred to in paragraph (1) the Secretary, in consultation with grantees under this part, shall determine the relationship between the costs of the activities referred to in paragraph (1) and the access of eligible individuals to the services and research opportunities described in such paragraph.

(B) LIMITATION.—After a final determination under subparagraph (A), the Secretary may not make a grant under this part unless the grantee complies with such requirements as may be included in such determination.

(j) TRAINING AND TECHNICAL ASSISTANCE.—Of the amounts appropriated under subsection (j) for a fiscal year, the Secretary may use not more than five percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a)), training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000.¹⁴

¹⁴ Section 401(f) of Public Law 106-345 provides that “Section 2671 of the Public Health Service Act (42 U.S.C. 300ff-71) is amended in subsection (j) (as redesignated by subsection (e)(1) of this section) by striking ‘fiscal years 1996 through 2000’ and inserting ‘fiscal years 2001 through

SEC. 2672. [300ff-72] PROVISIONS RELATING TO BLOOD BANKS.

(a) INFORMATIONAL AND TRAINING PROGRAMS.—The Secretary shall—

(1) develop and make available to technical and supervisory personnel employed at blood banks and facilities that produce blood products, materials and information concerning measures that may be implemented to protect the safety of the blood supply with respect to the activities of such personnel, including—

(A) state-of-the-art diagnostic and testing procedures relating to pathogens in the blood supply; and

(B) quality assurance procedures relating to the safety of the blood supply and of blood products; and

(2) develop and implement a training program that is designed to increase the number of employees of the Department of Health and Human Services who are qualified to conduct inspections of blood banks and facilities that produce blood products.

(b) Updates.—The Secretary shall periodically review and update the materials and information made available under informational or training programs conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$1,500,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.¹⁵

SEC. 2673. [300ff-73] RESEARCH, EVALUATION, AND ASSESSMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary, acting through **the Director of the Agency for Healthcare Research and Quality**, shall establish a program to enable independent research to be conducted by individuals and organizations with appropriate expertise in the fields of health, health policy, and economics (particularly health care economics) to develop—

(1) a comparative assessment of the impact and cost-effectiveness of major models for organizing and delivering HIV-related health care, mental health care, early intervention, and support services, that shall include a report concerning patient outcomes, satisfaction, perceived quality of care, and total cumulative cost, and a review of the appropriateness of such models for the delivery of health and support services to infants, children, women, and families with HIV disease;

(2) through a review of private sector financing mechanisms for the delivery of HIV-related health and support services, an assessment of strategies for maintaining private health benefits for individuals with HIV

2005.” The amendment cannot be executed because subsection (j) as redesignated by subsection (e)(1) of Section 401 does not contain the language to be deleted.

¹⁵ The mention of the years 1991 through 1995 is so in law.

disease and an assessment of specific business practices or regulatory barriers that could serve to reduce access to private sector benefit programs;

(3) an assessment of the manner in which different points-of-entry to the health care system affect the cost, quality, and outcome of the care and treatment of individuals and families with HIV disease; and

(4) a summary report concerning the major and continuing unmet needs in health care, mental health care, early intervention, and support services for individuals and families with HIV disease in urban and rural areas.

(b) **REPORT.**—Not later than 2 years after the date of enactment of this title, and periodically thereafter, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a progress report that contains the findings and assessments developed under subsection (a).

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.¹⁶

SEC. 2674. [300ff-74] EVALUATIONS AND REPORTS.

(a) **Evaluations.**—The Secretary shall, directly or through grants and contracts, evaluate programs carried out under this title.

(b) **REPORT TO CONGRESS.**—The Secretary shall, not later than October 1, 1996, and annually thereafter, prepare and submit to the appropriate Committees of Congress a report—

(1) evaluating the programs carried out under this title; and

(2) making such recommendations for administrative and legislative initiatives with respect to this title as the Secretary determines to be appropriate.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years **2001 through 2005**.

(d) **ALLOCATION OF FUNDS.**—The Secretary shall carry out this section with amounts available under section 241. Such amounts are in addition to any other amounts that are available to the Secretary for such purpose.

SEC. 2675. [300ff-75] COORDINATION.

(a) **REQUIREMENT.**—**The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, the Substance Abuse and Mental Health Services Administration, and the Health Care Financing Administration coordinate the planning, funding, and implementation of Federal HIV programs to**

enhance the continuity of care and prevention services for individuals with HIV disease or those at risk of such disease. The Secretary shall consult with other Federal agencies, including the Department of Veterans Affairs, as needed and utilize planning information submitted to such agencies by the States and entities eligible for support.

(b) **REPORT.**—**The Secretary shall biennially prepare and submit to the appropriate committees of the Congress a report concerning the coordination efforts at the Federal, State, and local levels described in this section, including a description of Federal barriers to HIV program integration and a strategy for eliminating such barriers and enhancing the continuity of care and prevention services for individuals with HIV disease or those at risk of such disease.**¹⁷

(c) **INTEGRATION BY STATE.**—As a condition of receipt of funds under this title, a State shall assure the Secretary that health support services funded under this title will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care **and prevention services** of individuals with HIV disease is enhanced.

(d) **INTEGRATION BY LOCAL OR PRIVATE ENTITIES.**—As a condition of receipt of funds under this title, a local government or private nonprofit entity shall assure the Secretary that services funded under this title will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care **and prevention services** of individuals with HIV is enhanced.

(e) **RECOMMENDATIONS REGARDING RELEASE OF PRISONERS.**—**After consultation with the Attorney General and the Director of the Bureau of Prisons, with States, with eligible areas under part A, and with entities that receive amounts from grants under part A or B, the Secretary, consistent with the coordination required in subsection (a), shall develop a plan for the medical case management of and the provision of support services to individuals who were Federal or State prisoners and had HIV disease as of the date on which the individuals were released from the custody of the penal system. The Secretary shall submit the plan to the Congress not later than 2 years after the date of the enactment of the Ryan White CARE Act Amendments of 2000.**

SEC. 2675A. [300ff-75a] AUDITS.

For fiscal year 2002 and subsequent fiscal years, the Secretary may reduce the amounts of grants under this title to a State or political subdivision of a State for a fiscal year if, with respect to such grants for the

¹⁶ The mention of the years 1991 through 1995 is so in law.

¹⁷ The placement of subsection (b) is according to the probable intent of Congress. Paragraph (2) of Section 413 of Public Law 106-345 provides that Section 2675 be amended “by redesignating subsections (b) and (c) as subsections (c) and (d), respectively.” Paragraph (3) of Section 413 of Public Law 106-345 further provides that a new subsection (b) be inserted “after subsection (b).”

second preceding fiscal year, the State or subdivision fails to prepare audits in accordance with the procedures of section 7502 of title 31, United States Code. The Secretary shall annually select representative samples of such audits, prepare summaries of the selected audits, and submit the summaries to the Congress.

SEC. 2675B. [300ff-75b] ADMINISTRATIVE SIMPLIFICATION REGARDING PARTS A AND B.

(a) **COORDINATED DISBURSEMENT.**—After consultation with the States, with eligible areas under part A, and with entities that receive amounts from grants under part A or B, the Secretary shall develop a plan for coordinating the disbursement of appropriations for grants under part A with the disbursement of appropriations for grants under part B in order to assist grantees and other recipients of amounts from such grants in complying with the requirements of such parts. The Secretary shall submit the plan to the Congress not later than 18 months after the date of the enactment of the Ryan White CARE Act Amendments of 2000. Not later than 2 years after the date on which the plan is so submitted, the Secretary shall complete the implementation of the plan, notwithstanding any provision of this title that is inconsistent with the plan.

(b) **BIENNIAL APPLICATIONS.**—After consultation with the States, with eligible areas under part A, and with entities that receive amounts from grants under part A or B, the Secretary shall make a determination of whether the administration of parts A and B by the Secretary, and the efficiency of grantees under such parts in complying with the requirements of such parts, would be improved by requiring that applications for grants under such parts be submitted biennially rather than annually. The Secretary shall submit such determination to the Congress not later than 2 years after the date of the enactment of the Ryan White CARE Act Amendments of 2000.

(c) **APPLICATION SIMPLIFICATION.**—After consultation with the States, with eligible areas under part A, and with entities that receive amounts from grants under part A or B, the Secretary shall develop a plan for simplifying the process for applications under parts A and B. The Secretary shall submit the plan to the Congress not later than 18 months after the date of the enactment of the Ryan White CARE Act Amendments of 2000. Not later than 2 years after the date on which the plan is so submitted, the Secretary shall complete the implementation of the plan, notwithstanding any provision of this title that is inconsistent with the plan.

SEC. 2676. [300ff-76] DEFINITIONS.

For purposes of this title:

(1) **COUNSELING.**—The term “counseling” means such counseling

provided by an individual trained to provide such counseling.

(2) **DESIGNATED OFFICER OF EMERGENCY RESPONSE EMPLOYEES.**—The term “designated officer of emergency response employees” means an individual designated under section 2686 by the public health officer of the State involved.

(3) **EMERGENCY.**—The term “emergency” means an emergency involving injury or illness.

(4) **EMERGENCY RESPONSE EMPLOYEE.**—The term “emergency response employees” means firefighters, law enforcement officers, paramedics, emergency medical technicians, funeral-service practitioners, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

(5) **EMPLOYER OF EMERGENCY RESPONSE EMPLOYEES.**—The term “employer of emergency response employees” means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

(6) **EXPOSED.**—The term “exposed”, with respect to HIV disease or any other infectious disease, means to be in circumstances in which there is a significant risk of becoming infected with the etiologic agent for the disease involved.

(7) **FAMILIES WITH HIV DISEASE.**—The term “families with HIV disease” means families in which one or more members have HIV disease.

(8) **HIV.**—The term “HIV” means infection with the etiologic agent for acquired immune deficiency syndrome.

(9) **HIV DISEASE.**—The term “HIV disease” means infection with the etiologic agent for acquired immune deficiency syndrome, and includes any condition arising from such syndrome.

(10) **OFFICIAL POVERTY LINE.**—The term “official poverty line” means the poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(11) **PERSON.**—The term “person” includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

(12) **STATE.**—The term “State”, except as otherwise specifically provided, means each of the 50 States, the District of Columbia, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Republic of the Marshall Islands.

SEC. 2677. [300ff-77] AUTHORIZATION OF APPROPRIATIONS.¹⁸

(a) **PART A.**—For the purpose of carrying out part A, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2005.

(b) **PART B.**—For the purpose of carrying out part B, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2005.

SEC. 2678. [300ff-78] PROHIBITION ON PROMOTION OF CERTAIN ACTIVITIES.

None of the funds authorized under this title shall be used to fund AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual. Funds authorized under this title may be used to provide medical treatment and support services for individuals with HIV.

PART E—EMERGENCY RESPONSE EMPLOYEES

Subpart I—Guidelines and Model Curriculum

SEC. 2680. [300ff-80] GRANTS FOR IMPLEMENTATION.

(a) **IN GENERAL.**—With respect to the recommendations contained in the guidelines and the model curriculum developed under section 253 of Public Law 100-607, the Secretary shall make grants to States and political subdivisions of States for the purpose of assisting grantees regarding the initial implementation of such portions of the recommendations as are applicable to emergency response employees.

(b) **REQUIREMENT OF APPLICATION.**—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there is authorized to be appropriated \$5,000,000 for each of the fiscal years 1991 through 1995.¹⁹

Subpart II—Notifications of Possible Exposure to Infectious Diseases

¹⁸ Section 11 of Public Law 104-146 (110 Stat. 1373) provides as follows:

“Notwithstanding any other provision of law, the total amounts of Federal funds expended in any fiscal year for AIDS and HIV activities may not exceed the total amounts expended in such fiscal year for activities related to cancer.”

¹⁹ The mention of the years 1991 through 1995 is so in law.

SEC. 2681. [300ff-81] INFECTIOUS DISEASES AND CIRCUMSTANCES RELEVANT TO NOTIFICATION REQUIREMENTS.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, the Secretary shall complete the development of—

(1) a list of potentially life-threatening infectious diseases to which emergency response employees may be exposed in responding to emergencies;

(2) guidelines describing the circumstances in which such employees may be exposed to such diseases, taking into account the conditions under which emergency response is provided; and

(3) guidelines describing the manner in which medical facilities should make determinations for purposes of section 2683(d).

(b) **SPECIFICATION OF AIRBORNE INFECTIOUS DISEASES.**—The list developed by the Secretary under subsection (a)(1) shall include a specification of those infectious diseases on the list that are routinely transmitted through airborne or aerosolized means.

(c) **DISSEMINATION.**—The Secretary shall—

(1) transmit to State public health officers copies of the list and guidelines developed by the Secretary under subsection (a) with the request that the officers disseminate such copies as appropriate throughout the States; and

(2) make such copies available to the public.

SEC. 2682. [300ff-82] ROUTINE NOTIFICATIONS WITH RESPECT TO AIRBORNE INFECTIOUS DISEASES IN VICTIMS ASSISTED.

(a) **ROUTINE NOTIFICATION OF DESIGNATED OFFICER.**—

(1) **DETERMINATION BY TREATING FACILITY.**—If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an airborne infectious disease, the medical facility shall notify the designated officer of the emergency response employees who transported the victim to the medical facility of the determination.

(2) **DETERMINATION BY FACILITY ASCERTAINING CAUSE OF DEATH.**—If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of death shall notify the designated officer of the emergency response employees who transported the victim to the initial medical facility of any determination by the medical facility that the victim had an airborne infectious disease.

(b) **REQUIREMENT OF PROMPT NOTIFICATION.**—With respect to a determination described in paragraph (1) or (2), the notification required in each

of such paragraphs shall be made as soon as is practicable, but not later than 48 hours after the determination is made.

SEC. 2683. [00ff-83] REQUEST FOR NOTIFICATIONS WITH RESPECT TO VICTIMS ASSISTED.

(a) **INITIATION OF PROCESS BY EMPLOYEE.**—If an emergency response employee believes that the employee may have been exposed to an infectious disease by a victim of an emergency who was transported to a medical facility as a result of the emergency, and if the employee attended, treated, assisted, or transported the victim pursuant to the emergency, then the designated officer of the employee shall, upon the request of the employee, carry out the duties described in subsection (b) regarding a determination of whether the employee may have been exposed to an infectious disease by the victim.

(b) **INITIAL DETERMINATION BY DESIGNATED OFFICER.**—The duties referred to in subsection (a) are that—

(1) the designated officer involved collect the facts relating to the circumstances under which, for purposes of subsection (a), the employee involved may have been exposed to an infectious disease; and

(2) the designated officer evaluate such facts and make a determination of whether, if the victim involved had any infectious disease included on the list issued under paragraph (1) of section 2681(a), the employee would have been exposed to the disease under such facts, as indicated by the guidelines issued under paragraph (2) of such section.

(c) **SUBMISSION OF REQUEST TO MEDICAL FACILITY.**—

(1) **IN GENERAL.**—If a designated officer makes a determination under subsection (b)(2) that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim involved was transported a request for a response under subsection (d) regarding the victim of the emergency involved.

(2) **FORM OF REQUEST.**—A request under paragraph (1) shall be in writing and be signed by the designated officer involved, and shall contain a statement of the facts collected pursuant to subsection (b)(1).

(d) **EVALUATION AND RESPONSE REGARDING REQUEST TO MEDICAL FACILITY.**—

(1) **IN GENERAL.**—If a medical facility receives a request under subsection (c), the medical facility shall evaluate the facts submitted in the request and make a determination of whether, on the basis of the medical information possessed by the facility regarding the victim involved, the emergency response employee was exposed to an infectious disease included on the list issued under paragraph (1) of section 2681(a), as indicated by the guidelines issued under paragraph (2) of such section.

(2) **NOTIFICATION OF EXPOSURE.**—If a medical facility makes a

determination under paragraph (1) that the emergency response employee involved has been exposed to an infectious disease, the medical facility shall, in writing, notify the designated officer who submitted the request under subsection (c) of the determination.

(3) **FINDING OF NO EXPOSURE.**—If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has not been exposed to an infectious disease, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the determination.

(4) **INSUFFICIENT INFORMATION.**—

(A) If a medical facility finds in evaluating facts for purposes of paragraph (1) that the facts are insufficient to make the determination described in such paragraph, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of the facts.

(B)(i) If a medical facility finds in making a determination under paragraph (1) that the facility possesses no information on whether the victim involved has an infectious disease included on the list under section 2681(a), the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of such medical information.

(ii) If after making a response under clause (i) a medical facility determines that the victim involved has an infectious disease, the medical facility shall make the determination described in paragraph (1) and provide the applicable response specified in this subsection.

(e) **TIME FOR MAKING RESPONSE.**—After receiving a request under subsection (c) (including any such request resubmitted under subsection (g)(2)), a medical facility shall make the applicable response specified in subsection (d) as soon as is practicable, but not later than 48 hours after receiving the request.

(f) **DEATH OF VICTIM OF EMERGENCY.**—

(1) **FACILITY ASCERTAINING CAUSE OF DEATH.**—If a victim described in subsection (a) dies at or before reaching the medical facility involved, and the medical facility receives a request under subsection (c), the medical facility shall provide a copy of the request to the medical facility ascertaining the cause of death of the victim, if such facility is a different medical facility than the facility that received the original request.

(2) **RESPONSIBILITY OF FACILITY.**—Upon the receipt of a copy of a request for purposes of paragraph (1), the duties otherwise established in this subpart regarding medical facilities shall apply to the medical facility ascertaining the cause of death of the victim in the same manner and to the same extent as such duties apply to the medical facility originally receiving the request.

(g) **ASSISTANCE OF PUBLIC HEALTH OFFICER.**—

(1) EVALUATION OF RESPONSE OF MEDICAL FACILITY REGARDING INSUFFICIENT FACTS.—

(A) In the case of a request under subsection (c) to which a medical facility has made the response specified in subsection (d)(4)(A) regarding the insufficiency of facts, the public health officer for the community in which the medical facility is located shall evaluate the request and the response, if the designated officer involved submits such documents to the officer with the request that the officer make such an evaluation.

(B) As soon as is practicable after a public health officer receives a request under paragraph (1), but not later than 48 hours after receipt of the request, the public health officer shall complete the evaluation required in such paragraph and inform the designated officer of the results of the evaluation.

(2) FINDINGS OF EVALUATION.—

(A) If an evaluation under paragraph (1)(A) indicates that the facts provided to the medical facility pursuant to subsection (c) were sufficient for purposes of determinations under subsection (d)(1)—

(i) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

(ii) the medical facility shall provide to the designated officer the applicable response specified in subsection (d).

(B) If an evaluation under paragraph (1)(A) indicates that the facts provided in the request to the medical facility were insufficient for purposes of determinations specified in subsection (c)—

(i) the public health officer shall provide advice to the designated officer regarding the collection and description of appropriate facts; and

(ii) if sufficient facts are obtained by the designated officer—

(I) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

(II) the medical facility shall provide to the designated officer the appropriate response under subsection (c).

SEC. 2684. [300ff-84] PROCEDURES FOR NOTIFICATION OF EXPOSURE.

(a) CONTENTS OF NOTIFICATION TO OFFICER.—In making a notification required under section 2682 or section 2683(d)(2), a medical facility shall provide—

(1) the name of the infectious disease involved; and

(2) the date on which the victim of the emergency involved was transported by emergency response employees to the medical facility

involved.

(b) MANNER OF NOTIFICATION.—If a notification under section 2682 or section 2683(d)(2) is mailed or otherwise indirectly made—

(1) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

(2) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

SEC. 2685. [300ff-85] NOTIFICATION OF EMPLOYEE.

(a) IN GENERAL.—After receiving a notification for purposes of section 2682 or 2683(d)(2), a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

(1) responded to the emergency involved; and

(2) as indicated by guidelines developed by the Secretary, may have been exposed to an infectious disease.

(b) CERTAIN CONTENTS OF NOTIFICATION TO EMPLOYEE.—A notification under this subsection to an emergency response employee shall inform the employee of—

(1) the fact that the employee may have been exposed to an infectious disease and the name of the disease involved;

(2) any action by the employee that, as indicated by guidelines developed by the Secretary, is medically appropriate; and

(3) if medically appropriate under such criteria, the date of such emergency.

(c) RESPONSES OTHER THAN NOTIFICATION OF EXPOSURE.—After receiving a response under paragraph (3) or (4) of subsection (d) of section 2683, or a response under subsection (g)(1) of such section, the designated officer for the employee shall, to the extent practicable, immediately inform the employee of the response.

SEC. 2686. [300ff-86] SELECTION OF DESIGNATED OFFICERS.

(a) IN GENERAL.—For the purposes of receiving notifications and responses and making requests under this subpart on behalf of emergency response employees, the public health officer of each State shall designate 1 official or officer of each employer of emergency response employees in the State.

(b) PREFERENCE IN MAKING DESIGNATIONS.—In making the designations required in subsection (a), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of

infectious diseases.

SEC. 2687. [300ff-87] LIMITATIONS WITH RESPECT TO DUTIES OF MEDICAL FACILITIES.

The duties established in this subpart for a medical facility—

(1) shall apply only to medical information possessed by the facility during the period in which the facility is treating the victim for conditions arising from the emergency, or during the 60-day period beginning on the date on which the victim is transported by emergency response employees to the facility, whichever period expires first; and

(2) shall not apply to any extent after the expiration of the 30-day period beginning on the expiration of the applicable period referred to in paragraph (1), except that such duties shall apply with respect to any request under section 2683(c) received by a medical facility before the expiration of such 30-day period.

SEC. 2688. [300ff-88] RULES OF CONSTRUCTION.

(a) **LIABILITY OF MEDICAL FACILITIES AND DESIGNATED OFFICERS.**—This subpart may not be construed to authorize any cause of action for damages or any civil penalty against any medical facility, or any designated officer, for failure to comply with the duties established in this subpart.

(b) **TESTING.**—This subpart may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

(c) **CONFIDENTIALITY.**—This subpart may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a victim of an emergency or with respect to an emergency response employee.

(d) **FAILURE TO PROVIDE EMERGENCY SERVICES.**—This subpart may not be construed to authorize any emergency response employee to fail to respond, or to deny services, to any victim of an emergency.

SEC. 2689. [300ff-89] INJUNCTIONS REGARDING VIOLATION OF PROHIBITION.

(a) **IN GENERAL.**—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to any violation of this subpart.

(b) **FACILITATION OF INFORMATION ON VIOLATIONS.**—The Secretary shall establish an administrative process for encouraging emergency response employees to provide information to the Secretary regarding violations of this subpart. As appropriate, the Secretary shall investigate alleged such violations and seek appropriate injunctive relief.

SEC. 2690. [300ff-90] APPLICABILITY OF SUBPART.

This subpart shall not apply in a State if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this subpart.

PART F—DEMONSTRATION AND TRAINING

Subpart I—Special Projects of National Significance

SEC. 2691. [300ff-101] SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.

(a) **IN GENERAL.**—Of the amount appropriated under each of parts A, B, C, and D of this title for each fiscal year, the Secretary shall use the greater of \$20,000,000 or 3 percent of such amount appropriated under each such part, but not to exceed \$25,000,000, to administer a special projects of national significance program to award direct grants to public and nonprofit private entities including community-based organizations to fund special programs for the care and treatment of individuals with HIV disease.

(b) **GRANTS.**—The Secretary shall award grants under subsection (a) based on—

- (1) the need to assess the effectiveness of a particular model for the care and treatment of individuals with HIV disease;
- (2) the innovative nature of the proposed activity; and
- (3) the potential replicability of the proposed activity in other similar localities or nationally.

(c) **SPECIAL PROJECTS.**—Special projects of national significance shall include the development and assessment of innovative service delivery models that are designed to—

- (1) address the needs of special populations;
- (2) assist in the development of essential community-based service delivery infrastructure; and
- (3) ensure the ongoing availability of services for Native American communities to enable such communities to care for Native Americans with HIV disease.

(d) **SPECIAL POPULATIONS.**—Special projects of national significance may include the delivery of HIV health care and support services to traditionally underserved populations including—

- (1) individuals and families with HIV disease living in rural communities;
- (2) adolescents with HIV disease;
- (3) Indian individuals and families with HIV disease;
- (4) homeless individuals and families with HIV disease;

- (5) hemophiliacs with HIV disease; and
- (6) incarcerated individuals with HIV disease.

(e) SERVICE DEVELOPMENT GRANTS.—Special projects of national significance may include the development of model approaches to delivering HIV care and support services including—

- (1) programs that support family-based care networks and programs that build organizational capacity critical to the delivery of care in minority communities;
- (2) programs designed to prepare AIDS service organizations and grantees under this title for operation within the changing health care environment; and
- (3) programs designed to integrate the delivery of mental health and substance abuse treatment with HIV services.

(f) COORDINATION.—The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the statewide coordinated statement of need, and the applicant agrees to participate in the ongoing revision process of such statement of need.

(g) REPLICATION.—The Secretary shall make information concerning successful models developed under this part available to grantees under this title for the purpose of coordination, replication, and integration. To facilitate efforts under this subsection, the Secretary may provide for peer-based technical assistance from grantees funded under this part.

Subpart II—AIDS Education and Training Centers

SEC. 2692. [300ff-111] HIV/AIDS COMMUNITIES, SCHOOLS, AND CENTERS.

(a) SCHOOLS; CENTERS.—

(1) N GENERAL.—The Secretary may make grants and enter into contracts to assist public and nonprofit private entities and schools and academic health science centers in meeting the costs of projects—

(A) **to train** health personnel, including practitioners in programs under this title and other community providers, in the diagnosis, treatment, and prevention of HIV disease, including the prevention of the perinatal transmission of the disease, **including** measures for the prevention and treatment of opportunistic infections, **and including (as applicable to the type of health professional involved), prenatal and other gynecological care for women with HIV disease;**

(B) to train the faculty of schools of, and graduate departments or programs of, medicine, nursing, osteopathic medicine, dentistry, public health, allied health, and mental health practice to teach health professions students to provide for the health care needs of individuals with HIV disease;

(C) To develop and disseminate curricula and resource materials relating to the care and treatment of individuals with such disease and the prevention of the disease among individuals who are at risk of contracting the disease; **and**

(D) to develop protocols for the medical care of women with HIV disease, including prenatal and other gynecological care for such women.

(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to qualified projects which will—

(A) train, or result in the training of, health professionals who will provide treatment for minority individuals with HIV disease and other individuals who are at high risk of contracting such disease; and

(B) train, or result in the training of, minority health professionals and minority allied health professionals to provide treatment for individuals with such disease.

(3) APPLICATION.—No grant or contract may be made under paragraph (1) unless an application is submitted to the Secretary in such form, at such time, and containing such information, as the Secretary may prescribe.

(b) DENTAL SCHOOLS.—

(1) IN GENERAL.—

(A) GRANTS.—The Secretary may make grants to dental schools and programs described in subparagraph (B) to assist such schools and programs with respect to oral health care to patients with HIV disease.

(B) ELIGIBLE APPLICANTS.—For purposes of this subsection, the dental schools and programs referred to in this subparagraph are dental schools and programs that were described in section 777(b)(4)(B) as such section was in effect on the day before the date of the enactment of the Health Professions Education Partnerships Act of 1998 (Public Law 105—392) and in addition dental hygiene programs that are accredited by the Commission on Dental Accreditation.

(2) APPLICATION.—Each dental school or program described in section **the section referred to in paragraph (1)(B)**²⁰ may annually submit an application documenting the unreimbursed costs of oral health care provided to patients with HIV disease by that school or hospital during the prior year.

(3) DISTRIBUTION.—The Secretary shall distribute the available funds

²⁰ So in law. Section 402(b) Public Law 106-345 provides that “Section 2692(b) of the Public Health Service Act (42 U.S.C. 300ff-111(b)) is amended . . . (2) in paragraph (2) by . . . inserting ‘the section referred to in paragraph (1)(B)’”, but does not strike the word “section” that appears before the new language.

among all eligible applicants, taking into account the number of patients with HIV disease served and the unreimbursed oral health care costs incurred by each institution as compared with the total number of patients served and costs incurred by all eligible applicants.

(4) MAINTENANCE OF EFFORT.—The Secretary shall not make a grant under this subsection if doing so would result in any reduction in State funding allotted for such purposes.

(5) COMMUNITY-BASED CARE.—The Secretary may make grants to dental schools and programs described in paragraph (1)(B) that partner with community-based dentists to provide oral health care to patients with HIV disease in unserved areas. Such partnerships shall permit the training of dental students and residents and the participation of community dentists as adjunct faculty.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) SCHOOLS; CENTERS—For the purpose of grants under subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the **fiscal years 2001 through 2005.**

(2) DENTAL SCHOOLS.—

(A) IN GENERAL.—For the purpose of grants under paragraphs (1) through (4) of subsection (b), there are authorized to be appropriated such sums as may be necessary for each of the **fiscal years 2001 through 2005.**

(B) COMMUNITY-BASED CARE.—For the purpose of grants under subsection (b)(5), there are authorized to be appropriated such sums as may be necessary for each of the **fiscal years 2001 through 2005.**